

4-5-04

04-05-2004

Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings



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

102676251

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

1. Name of conveying party(ies):

Jervis B. Webb Company

- Individual(s) Association General Partnership Limited Partnership [X] Corporation-State Michigan Other

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

3. Nature of conveyance:

- Assignment Merger [X] Security Agreement Change of Name Other

Execution Date: March 19, 2004

2. Name and address of receiving party(ies)

Name: Congress Financial Corporation Internal (Central) Address:

Street Address: 150 S. Wacker Drive, Ste. 5800 City: Chicago State: IL Zip: 60606

- Individual(s) citizenship Association General Partnership Limited Partnership [X] Corporation-State Illinois 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) See Attached Schedule A

B. Trademark Registration No(s) See Attached Schedule A

Additional number(s) attached Yes No

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

Name: Elizabeth J. Burns

Internal Address: Latham & Watkins

Street Address: 233 S. Wacker Drive Suite 5800

City: Chicago State: IL Zip: 60606

6. Total number of applications and registrations involved:

43

7. Total fee (37 CFR 3.41): \$ 1,090.00

- [X] Enclosed Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Elizabeth J. Burns Name of Person Signing

Signature

4-2-04 Date

Total number of pages including cover sheet, attachments, and document: 16

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

04/05/2004 ECDOPER 00000140 1820993

01 FC:8521 40.00 OP 02 FC:8522 1050.00 OP 03 FC:8523 120.00 OP

TRADEMARK REEL: 002824 FRAME: 0522

**SCHEDULE TO JERVIS INTERNATIONAL  
TRADEMARK AGREEMENT**

**United States Filings**

<b><u>MARK</u></b>	<b><u>CTRY.</u></b>	<b><u>REG. NO.</u></b>	<b><u>REG. DT.</u></b>	<b><u>APP. NO.</u></b>	<b><u>APP. DT.</u></b>	<b><u>DKT. NO.</u></b>	<b><u>STATUS</u></b>
4-Prong Star Design	U.S.	1,820,993	15FE1994	74/391,593	13MY1993	70520-0206	Registered
Bulkmaster	U.S.	789,021	04MY1965	72/195,987	18JE1964	70520-0285	Registered
Carttools	U.S.			76/494,703	14FE2003	70520-2060	Filed
Dog Magic	U.S.	739,718	23OC1962	72/132,884	27NO1961	70520-0266	Registered
Euroskid	U.S.			76/391,780	08AP2002	70520-2020	Filed
I-Plan	U.S.			76/537,087	11AU2003	70520-2083	Filed
I-Series	U.S.			76/386,634	22MR2002	70520-1994	Filed
I-Slot	U.S.			76/537,086	11AU2003	70520-2084	Filed
Microloy	U.S.	1,962,929	19MR1996	74/593,507	01NO1994	70520-0045	Registered
Mini-Cart	U.S.	863,437	14JA1969	72/290,358	05FE1968	70520-0304	Registered
MS/RV	U.S.	1,941,715	12DE1995	74/508,773	04AP1994	70520-0087	Registered
PC/AIM	U.S.	2,741,224	29JL2003	76/377,784	05MR2002	70520-1991	Registered
PCAIM Essentials	U.S.			78/333,259	25NO2003	70520-2088	Filed
PCASM	U.S.			76/377,785	05MR2002	70520-1992	Filed
PCTMS	U.S.			76/377,783	05MR2002	70520-1993	Filed
Platform Magic	U.S.			76/433,323	22JL2002	70520-2049	Filed
Prontow	U.S.	749,056	07MY1963	72/144,031	07MY1962	70520-0279	Registered
Red Seal	U.S.	601,014	18JA1955	71/663,082	22MR1954	70520-0325	Registered
Red Seal Design	U.S.	582,670	24NO1953	71/619,116	21SE1951	70520-0157	Registered
Retriever	U.S.	693,814	01MR1960	72,095	22AP1959	70520-0194	Registered
Slide-N-Lock	U.S.	828,807	16MY1967	72/233,766	02DE1965	70520-0137	Registered
SmartCart	U.S.	2,599,793	23JL2002	76/256,285	14MY2001	70520-1892	Registered
SmartMark	U.S.	2,561,801	16AP2002	76/300,751	17AU2001	70520-0594	Registered
Stop-N-Flow	U.S.	953,590	20FE1973	72/400,361	16AU1971	70520-0171	Registered
Towveyor	U.S.	568,293	23DE1952	71/619,117	21SE1951	70520-0154	Registered
Unibilt	U.S.	1,352,472	06AU1985	73/521,597	11FE1985	70520-0301	Registered
Unibolt	U.S.	1,045,303	03AU1976	73/071,603	12DE1975	70520-0173	Registered
VTEC	U.S.			75/365,109	30SE1997	70520-1113	Filed
Webb	U.S.	571,119	24FE1953	71/632,704	17JL1952	70520-0319	Registered
Webb	U.S.	1,147,979	03MR1981	73/218,753	07JE1979	70520-0229	Registered
Webb & Design	U.S.	620,815	07FE1956	71/684,367	28MR1955	70520-0215	Registered
Webb Reelroom	U.S.	2,716,289	13MY2003	76/196,433	22JA2001	70520-1861	Registered
Webb Reelroom Systems & Design	U.S.	2,716,297	13MY2003	76/202,193	31JA2001	70520-1862	Registered
Webb Reelview	U.S.	2,767,380	23SE2003	76/196,434	22JA2001	70520-1860	Registered

<u>MARK</u>	<u>CTRY.</u>	<u>REG. NO.</u>	<u>REG. DT.</u>	<u>APP. NO.</u>	<u>APP. DT.</u>	<u>DKT. NO.</u>	<u>STATUS</u>
Webb Reelview & Design	U.S.			76/196,435	22JA2001	70520-1869	Filed
Webb Vsort	U.S.			76/196,432	22JA2001	70520-1859	Filed
Webb-Coat	U.S.			76/383,112	13MR2002	70520-1989	Filed
Webb-Triax Company	U.S.	2,498,013	16OC2001	76/063,402	05JE2000	70520-1864	Registered
Webb-View	U.S.	1,363,139	01OC1985	73/533,384	22AP1985	70520-0205	Registered
Webb-X	U.S.	627,318	22MY1956	71/692,443	03AU1955	70520-0336	Registered
Webballoy	U.S.	804,211	22FE1966	222,886	07JL1965	70520-0303	Registered
WF	U.S.	582785	24NO1953	71/634,433	21AU1952	70520-0136	Registered
Wide Wing	U.S.	2,668,295	31DE2002	76/276,840	27JE2001	70520-1903	Registered

### Canadian Filings

<u>MARK</u>	<u>CTRY.</u>	<u>REG. NO.</u>	<u>REG. DT.</u>	<u>APP. NO.</u>	<u>APP. DT.</u>	<u>DKT. NO.</u>	<u>STATUS</u>
Dog Magic	Canada	TMA565,367	30JL2002	1,056,937	26AP2000	70520-1763	Registered
PC/AIM	Canada	TMA564,933	19JL2002	1,056,931	26AP2000	70520-1762	Registered
Red Seal	Canada	102,836	09MR1956	231,724	21JL1955	70520-0320	Registered
Red Seal & Design	Canada	102837	09MR1956	231733	21JL1955	70520-0155	Registered
Stop-N-Flow	Canada	TMA563,300	12JE2002	1,056,936	26AP2000	70520-1761	Registered
Towmatic	Canada	127580	10AU1962	261905	21MR1961	70520-0240	Registered
Towveyor	Canada	TMA103670	29JE1956	231725	21JL1955	70520-0141	Registered
Unibilt	Canada	TMA564,545	10JL2002	1,056,935	26AP2000	70520-1760	Registered
Webb	Canada	TMA118,562	24JE1960	231730	21JL1955	70520-0162	Registered
Webb & Design	Canada	TMA104,703	19OC1956	231,738	21JL1955	70520-0341	Registered
Webb-View	Canada	TMA560,938	29AP2002	1,056,933	26AP2000	70520-1758	Registered
Webballoy	Canada	TMA559,333	18MR2002	1,056,934	26AP2000	70520-1759	Registered
Wide Wing	Canada	TMA563,274	12JE2002	1,056,932	26AP2000	70520-1757	Registered

**TRADEMARK SECURITY AGREEMENT**  
**(Jervis B. Webb Company)**

THIS TRADEMARK SECURITY AGREEMENT (the "Agreement") is made and entered into as of March ~~14~~<sup>17</sup>, 2004 by JERVIS B. WEBB COMPANY, a Michigan corporation (the "Debtor"), in favor of CONGRESS FINANCIAL CORPORATION (CENTRAL), an Illinois corporation, as US collateral agent (together with its successors and assigns, the "US Collateral Agent") for itself and the other Agent Parties (as defined below).

**WITNESSETH:**

WHEREAS, US Collateral Agent, Congress Financial Corporation (Central), as European Collateral Agent, lenders ("Lenders") from time to time party to the Loan Agreement hereinafter defined, Debtor ("US Borrower"), Europa Engineering Ltd., a limited liability company organized in England and Wales ("Europa"), and Jervis B. Webb Company Limited, a limited liability company organized in England and Wales ("Jervis UK" and together with Europa, the "European Borrowers") have entered or are about to enter into certain financing arrangements pursuant to which US Collateral Agent, European Collateral Agent and Lenders may make loans and advances and provide other financial accommodations to US Borrower and European Borrowers as set forth in the Loan and Security Agreement, dated of even date herewith, among US Borrower and European Borrowers, US Collateral Agent, European Collateral Agent and Lenders (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "Loan Agreement"), and other agreements, documents and instruments now or at any time executed and/or delivered in connection therewith, including, but not limited to, this Agreement (all of the foregoing, together with the Loan Agreement, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "US Financing Agreements"); terms used but not defined herein shall have the meanings ascribed to them in the Loan Agreement;

WHEREAS, Congress Financial Corporation (Canada), individually and as agent (in such capacity, "Canadian Collateral Agent") for itself and the lenders ("Canadian Lenders") from time to time party to the Canadian Loan Agreement hereinafter defined, Jervis B. Webb Company of Canada, Ltd. ("Canadian Borrower" and together with US Borrower and European Borrowers are sometimes collectively referred to herein as the "Borrowers") and Canadian Lenders are party to certain financing arrangements pursuant to which Canadian Collateral Agent and Canadian Lenders may make loans and advances and provide other financial accommodations to Canadian Borrower as set forth in the Loan Agreement, dated of even date herewith, among Canadian Borrower, Canadian Collateral Agent and Canadian Lenders (as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, the "Canadian Loan Agreement"), and other agreements, documents and instruments now or at any time executed and/or delivered in connection therewith (all of the foregoing, together with the Canadian Loan Agreement, as the same now exist or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced, being collectively referred to herein as the "Canadian Financing Agreements" and together with the US Financing Agreements, the "Financing Agreements");

WHEREAS, US Collateral Agent is an agent for itself and the other Agent Parties pursuant to and in accordance with that certain Master Agency Agreement (the "Agency Agreement") dated as of the date hereof among US Collateral Agent, Canadian Collateral Agent and European Collateral Agent for purposes of realizing the benefits of this Agreement and other documents and agreements referenced therein and for purposes of enforcing the rights in the collateral provided by Borrowers, or any of them, and any of their respective affiliates from time to time party to Financing Agreements to one or more Agent Parties;

WHEREAS, Debtor and certain of its direct and indirect subsidiaries have executed and delivered or are about to execute and deliver to US Collateral Agent on behalf of Agent Parties guarantees (as amended, reaffirmed or otherwise modified from time to time, the "Guarantee") in favor of Agent Parties pursuant to which, *inter alia*, each such party absolutely and unconditionally guarantees to Agent Parties the payment and performance of certain now existing and hereafter arising obligations, liabilities and indebtedness of Borrowers, or any of them, and any of their respective affiliates from time to time party to Financing Agreements to one or more Agent Parties; and

WHEREAS, Agent Parties have required, as a condition to the extension of credit to the Borrowers under the Financing Agreements, that the Debtor shall grant to US Collateral Agent for the benefit of itself and the other Agent Parties a security interest in and to the Collateral (as defined herein).

### AGREEMENT

NOW THEREFORE, in consideration of the premises and in order to induce Agent Parties to extend credit under the Financing Agreements, the Debtor hereby agrees with US Collateral Agent as follows:

1. Creation of Security Interest. The Debtor hereby grants to US Collateral Agent for the benefit of itself and the other Agent Parties a continuing first priority security interest in all of the Debtor's right, title and interest in and to the collateral described in Section 2 herein (the "Collateral") in order to secure the payment of the Obligations (as defined below) and all obligations of the Debtor now or hereafter existing under this Agreement including, without limitation, all fees, costs and expenses whether in connection with collection actions hereunder or otherwise (collectively, the "Secured Obligations"). "Obligations" shall mean any and all obligations, liabilities and indebtedness of every kind, nature and description (including the Guaranteed Obligations referenced in the Guarantee and the Obligations as defined in the Loan Agreement) owing by the Debtor to one or more Agent Parties and/or any of their respective affiliates, including principal, interest, charges, fees, costs and expenses, however evidenced, whether as principal, surety, endorser, guarantor or otherwise, whether arising under this Agreement, the Guarantee or any other Financing Agreement, whether now existing or hereafter arising, whether arising before, during or after the initial or any renewal term of this Agreement or after the commencement of any proceeding with respect to the Debtor under the United States Bankruptcy Code, the Bankruptcy and Insolvency Act (Canada), the Companies Creditors Arrangement Act (Canada), the Insolvency Act 1986 (UK) or any similar statute in any jurisdiction (the "Insolvency Laws") (including the payment of interest and other amounts which would accrue and become due but for the commencement of such proceeding), whether direct or

indirect, absolute or contingent, joint or several, due or not due, primary or secondary, liquidated or unliquidated, secured or unsecured, and however acquired by an Agent Party.

2. Collateral. The Collateral is:

(a) all of the Debtor's registered trademarks, trademark registrations, tradenames and trademark applications, which, in each case, are now or hereafter filed with the United States Patent and Trademark Office, or any similar office or agency of any state, territory or possession of the United States or any similar office or agency of any other countries or otherwise owned in the United States, any state, territory or possession thereof or any other country, including, without limitation, the registered trademarks, tradenames, trademark registrations and trademark applications listed on Schedule A attached hereto and made a part hereof, and (i) renewals thereof, (ii) all income, royalties, damages and payments now and hereafter due or payable with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world and all proceeds of the foregoing (all of the foregoing trademarks, trademark registrations, tradenames and trademark applications, together with the items described in clauses (i)-(iv) in this subparagraph (a), are sometimes hereinafter referred to, either individually or collectively, as the "Trademarks"); and

(b) the goodwill of the Debtor's business connected with and symbolized by the Trademarks.

provided, that the Collateral shall not include any lease, license, contract, property right or agreement to which the Debtor is a party or any of its rights or interests thereunder if and only for so long as the grant of a security interest hereunder shall constitute or result in a breach, termination or default under any such lease, license, contract, property right or agreement (other than to the extent that any such term would be rendered ineffective pursuant to the UCC of any relevant jurisdiction or any other applicable law or principles of equity) (collectively, "Excluded Assets"); provided that such lease, license, contract, property right or agreement shall be an Excluded Asset only to the extent and for so long as the consequences specified above shall result and shall cease to be an Excluded Asset and shall become subject to the security interest granted hereunder, immediately and automatically, at such time as such consequences shall no longer result.

3. License.

(a) Grant of License. Effective upon the occurrence and continuation of an Event of Default under and as defined in the Loan Agreement and without any further action of the parties, the Debtor hereby grants to US Collateral Agent for the benefit of itself and the other Agent Parties a non-exclusive, assignable right and license (i) under the Trademarks specified in Section 2(a) above, and (ii) under any license agreements held by the Debtor with respect to trademarks owned by any person or entity other than the Debtor, but only to the extent permitted under such agreements, to sell, manufacture or produce any collateral provided under the Financing Agreements to the extent that such license is reasonably necessary to permit or to facilitate the generation or collection, after an Event of Default, of any accounts receivable of

Debtor or the disposition, after an Event of Default, of any such collateral (the "License"). The License shall be without royalty or any other payments or fees by US Collateral Agent or the other Agent Parties and the permitted use by US Collateral Agent and the other Agent Parties thereunder (i) shall be worldwide and (ii) shall be limited only by those restrictions to which the Debtor is subject under the Trademarks.

(b) Term of License. The term of the License (the "License Term") shall continue from the occurrence, and shall continue during the continuation, of an Event of Default until the earlier of: (i) the expiration of all of the Trademarks; (ii) the indefeasible payment in full in cash of the Secured Obligations and termination of the Financing Agreements; or (iii) disposition of all Collateral and any proceeds thereof in connection with the enforcement of Agent Parties' remedies under the Financing Agreements and application of the proceeds of such disposition to the satisfaction of the Secured Obligations.

4. Restrictions on Future Agreements. Until the indefeasible payment in full in cash of all the Secured Obligations and termination of the Financing Agreements, the Debtor will not, without US Collateral Agent's prior written consent, which consent shall not be unreasonably withheld, (a) enter into any agreement, including, without limitation, any license agreement that is inconsistent with the Debtor's obligations under this Agreement and the other Financing Agreements to which the Debtor is a party, (b) take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any reasonable action (including, without limitation, the abandonment of any Trademark except for the abandonment of Trademarks in the ordinary course of business which are not material to the operations of the Debtor or Agent Parties' rights in any material Collateral), that would affect the validity or enforceability of the rights transferred to US Collateral Agent and the other Agent Parties under this Agreement or (c) enter into any other contractual obligations which restrict or inhibit US Collateral Agent's rights to sell or otherwise dispose of the Collateral or any part thereof after the occurrence of an Event of Default.

5. New Trademarks. The Debtor represents and warrants that the Trademarks listed on Schedule A constitute all of the registered trademarks, tradenames and applications which are as of the date hereof owned by or are pending on behalf of the Debtor in the United States Patent and Trademark office or in any similar office or agency of a territory or possession of the United States. If, before the Secured Obligations shall have been satisfied in full, the Debtor shall (i) obtain ownership of any trademark registration or apply for any trademark registration after the date hereof in the United States Patent and Trademark Office or in any similar office or agency of a territory or possession of the United States, or (ii) obtain ownership of any trademarks or tradenames used in the United States or any territory or possession thereof, or (iii) enter into an agreement by which Debtor obtains an exclusive license to use the trademarks, tradenames, or other trade indicia of a third party, the provisions of Section 1 shall automatically apply thereto and the Debtor shall give to US Collateral Agent notice thereof pursuant to Section 7.1(a)(iv) of the Loan Agreement, provided in case of clause (iii) above, in the event any such license by its terms prohibits assignment or a grant of a security interest hereunder, the Debtor shall use reasonable efforts to obtain requisite consent, and upon obtaining such consent, Section 1 shall automatically apply thereto. The Debtor hereby authorizes US Collateral Agent to modify this Agreement by amending Schedule A to include

any future trademarks, trademark registrations, trademark applications and tradenames that are Trademarks, as applicable, under Section 2 or under this Section 5.

6. Additional Representations and Warranties. The Debtor hereby represents, warrants, covenants and agrees that:

(a) Except as may be authorized pursuant to Section 8 hereof, it is and will continue to be the owner of all its right, title and interest in the Collateral so long as the Trademarks shall continue in force, free from any lien in favor of any person or entity except as permitted under the Financing Agreements.

(b) It has the full right and power to grant the security interest in the Collateral made hereby.

(c) It has made no previous assignment, transfer or agreements in conflict herewith or constituting a present or future assignment, transfer, or encumbrance on any of the Collateral, except for liens otherwise permitted under the Financing Agreements.

(d) So long as any Secured Obligation remains outstanding or the Financing Agreements have not been terminated, it will not execute, and there will not be on file in any public office, any financing statement or other document or instruments evidencing or giving notice of liens affecting the Collateral except as permitted under the Financing Agreements.

(e) To Debtor's knowledge, no material infringement or unauthorized use currently is being made of any of the Trademarks which would have a material adverse affect on the fair market value of the Collateral as a whole or the benefits of this Agreement granted to US Collateral Agent and the other Agent Parties, including, without limitation, the validity, priority or perfection of the security interest granted herein or the remedies of US Collateral Agent hereunder and the Debtor will continue to maintain commercially reasonable monitoring and enforcement practices to protect the Collateral.

7. Royalties; Terms. The Debtor hereby agrees that the use by US Collateral Agent of all Trademarks as permitted hereunder shall be worldwide without any liability for royalties or other related charges from US Collateral Agent or the other Agent Parties to the Debtor. The term of the security interest granted herein shall extend until the earlier of (i) the expiration of each of the respective Trademarks, or (ii) the time at which the Secured Obligations have been paid indefeasibly in full in cash and the Financing Agreements have been terminated.

8. US Collateral Agent's Right to Maintain Quality. The Debtor agrees that from and after the occurrence of an Event of Default, US Collateral Agent shall have the right to establish such additional quality control standards as US Collateral Agent, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by the Debtor under the Trademarks. The Debtor agrees (i) not to sell or assign its interest in, or to grant any license under, any Trademarks without the prior written consent of US Collateral Agent, which consent shall not be unreasonably withheld, except as otherwise permitted under the applicable Financing Agreements; (ii) to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with the quality of such products as of the date hereof; and (iii)



to provide US Collateral Agent, upon request, with certificate of an officer of Debtor certifying the Debtor's compliance with the foregoing.

9. Duties of the Debtor. The Debtor shall (i) prosecute diligently any trademark application that is part of the Trademarks pending as of the date hereof or thereafter until the Secured Obligations shall have been paid in full and the Financing Agreements shall have been terminated and (ii) (a) make application for registration of trademarks if the value thereof reasonably justifies the expense of such application, (b) preserve and maintain all rights in trademark applications, trademarks, tradenames, and trademark registrations that are part of the Trademarks and which are material to the operations of Debtor or the Agent Parties' rights in the Collateral, (c) not abandon any right to file a trademark application nor any pending trademark application if the value thereof could reasonably be expected to justify the cost of obtaining such trademark, and (d) not abandon any given trademark (except for abandoning any trademark in the ordinary course of business which are not material to the operations of Debtor or Agent Parties' rights in any material Collateral), provided, however, that the Debtor shall give US Collateral Agent written notice pursuant to Section 7(a)(iv) of the Loan Agreement of any discontinuance of any right or trademark application or any abandonment described in clause (ii) of this Section 9. Any expenses incurred in connection with the applications referred to in this Section 9 shall be borne by the Debtor. The Debtor agrees to retain an experienced trademark attorney for the filing and prosecution of all such applications and other proceedings.

Upon the occurrence and continuance of the Event of Default, if the Debtor fails to comply with any of the foregoing duties, US Collateral Agent may so comply in the Debtor's name to the extent permitted by law, but at the Debtor's expense, and the Debtor hereby agrees to reimburse US Collateral Agent in full for all expenses, including the reasonable fees and disbursements of attorneys and paralegals (including charges for inside counsel) incurred by US Collateral Agent in protecting, defending and maintaining the Collateral.

In the event that the Debtor shall fail to pay when due any fees required to be paid by it hereunder, or shall fail to discharge any lien, prohibited hereby, or shall fail to comply with any other duty hereunder, US Collateral Agent may, but shall not be required to, pay, satisfy, discharge or bond the same for the account of the Debtor and all moneys so paid out shall be Secured Obligations of the Debtor repayable on demand, together with interest at an interest rate equal to the highest rate set forth in paragraph c of the definition of "Interest Rate" of the Loan Agreement.

The Debtor shall take all commercially reasonable action to preserve and maintain the validity, perfection and first priority of US Collateral Agent's security interest granted herein in the Collateral.

10. US Collateral Agent's Right to Sue. While an Event of Default shall have occurred and be continuing or to the extent US Collateral Agent deems it appropriate to protect the value of Collateral, its priority liens thereon and/or its enforcement rights with respect to such liens, US Collateral Agent shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Collateral, and any licenses thereunder, and, if US Collateral Agent shall commence any such suit, the Debtor shall, at the request of US Collateral Agent, do any and all lawful acts and execute any and all proper documents required by US Collateral Agent in

aid of such enforcement and the Debtor shall indemnify and shall, upon demand, promptly reimburse US Collateral Agent for all damages, costs and expenses, including reasonable attorneys' and paralegal fees and expenses, incurred by US Collateral Agent in the exercise of its rights under this Section 10.

11. Waivers. No course of dealing between the Debtor and US Collateral Agent or the other Agent Parties, nor any failure to exercise, nor any delay in exercising, on the part of US Collateral Agent or any other Agent Party, any right, power or privilege hereunder or under any Financing Agreement 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.

12. 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. If any provision hereof shall render an otherwise valid Trademark invalid or ineffective, then such provision shall be void ab initio to the extent that the validity or effectiveness of the Trademark is thereby preserved.

13. Amendments and Waivers. Except as set forth in Section 5 hereof, neither this Agreement nor any provision hereof shall be amended, modified, waived or discharged orally or by course of conduct, but only by a written agreement signed by an authorized officer of each of Debtor and US Collateral Agent. Neither party shall, by any act, delay, omission or otherwise be deemed to have expressly or impliedly waived any of its rights, powers and/or remedies unless such waiver shall be in writing and signed by an authorized officer of each of Debtor and US Collateral Agent. Any such waiver shall be enforceable only to the extent specifically set forth therein. A waiver by either party of any right, power and/or remedy on any one occasion shall not be construed as a bar to or waiver of any such right, power and/or remedy which such party would otherwise have on any future occasion, whether similar in kind or otherwise.

14. Remedies. If any Event of Default exists, US Collateral Agent shall be entitled to exercise in respect of the Collateral, in addition to other rights and remedies provided for herein, in any of the Financing Agreements or otherwise available to US Collateral Agent, all of the rights and remedies of a secured party under the Uniform Commercial Code (the "UCC") whether or not the UCC applies to the affected Collateral, and also may (i) require the Debtor, and the Debtor hereby agrees that it will upon the request of US Collateral Agent, forthwith, (A) execute and deliver an assignment, substantially in the form of Exhibit A hereto (unless the grant of security interest hereunder would render an "intent to use" trademark application void) of all right, title and interest in and to the Collateral, and (B) take such other action as US Collateral Agent may reasonably request to effectuate the outright assignment of such Collateral or to exercise, register or further perfect and protect its rights and remedies with respect to such assigned Collateral, and (ii) without notice except as specified below, sell the Collateral or any part thereof in one or more parcels at public or private sale, at any of US Collateral Agent's offices or elsewhere, for cash, on credit or for future delivery, and upon such terms as US

Collateral Agent deems commercially reasonable. The Debtor agrees that at least ten (10) days' prior notice to the Debtor of the time and place of any public sale or the time which any private sale is to be made shall constitute reasonable notification. US Collateral Agent shall not be obligated to make any sale of the Collateral regardless of notice of sale having been given. US Collateral Agent may adjourn any public or private sale from time to time by announcement at the time and place fixed therefor, and such sale may, without further notice, be made at the time and place to which it was so adjourned. US Collateral Agent or any other Agent Party may purchase all or any part of the Collateral at public or, if permitted by law, private sale and, in lieu of actual payment of such purchase price, may setoff the amount of such price against the Secured Obligations. The proceeds realized from the sale of any Collateral shall be, applied in the manner set forth in the Loan Agreement or Agency Agreement, as applicable. If any deficiency shall arise, the Debtor shall remain liable to US Collateral Agent and the other Agent Parties therefor. The commencement of any action, legal or equitable, or the rendering of any judgment or decree for deficiency shall not affect US Collateral Agent's security interest in the Collateral until the Secured Obligations are fully paid. The Debtor agrees that US Collateral Agent and the other Agent Parties have no obligation to preserve rights to Collateral against any other parties.

15. Cumulative Remedies; Power of Attorney; Effect on the Other Financing Agreements. All of US Collateral Agent's rights and remedies with respect to the Collateral, whether established hereby, by any other Financing Agreement or by law shall be cumulative and may be exercised singularly or concurrently. The Debtor hereby authorizes US Collateral Agent to make, constitute and appoint any officer or agent of US Collateral Agent as US Collateral Agent may select, in its sole discretion, as the Debtor's true and lawful attorney-in-fact, with power, during the existence of an Event of Default to (a) endorse the Debtor's name on all applications, documents, papers and instruments necessary or desirable for US Collateral Agent in the use of the Collateral including, without limitation, if the Debtor fails to execute and deliver within three (3) Business Days of US Collateral Agent's written request therefor the assignment substantially in the form of Exhibit A hereto, (b) take any other actions with respect to the Collateral as US Collateral Agent reasonably deems in the best interest of US Collateral Agent, (c) grant or issue any exclusive or non-exclusive license under the Collateral to anyone, or (d) assign, pledge, convey or otherwise transfer title in or dispose of the Collateral to anyone. The Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney, being coupled with an interest, shall be irrevocable until all Secured Obligations shall have been paid indefeasibly in full in cash and the Financing Agreements have been terminated. The Debtor acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of US Collateral Agent and the other Agent Parties under the Financing Agreements but rather is intended to facilitate the exercise of such rights and remedies.

16. Notice. All notices, requests and demands hereunder shall be in writing and (a) made to US Collateral Agent at the address set forth below and to the Debtor by delivering such notices to "US Borrower" set forth in Section 13.3 of the Loan Agreement, or to such other address as either party may designate by written notice to the other in accordance with this provision, and (b) deemed to have been given or made: if delivered in person, immediately upon delivery; if by telex, telegram or facsimile transmission, immediately upon sending and upon confirmation of receipt; if by nationally recognized overnight courier service with

instructions to deliver the next Business Day, one (1) Business Day after sending; and if by certified mail, return receipt requested, five (5) Business Days after mailing.

17. Continuing Security Interest; Transfer of Obligations. This Agreement shall create a continuing security interest in the Collateral and shall (i) remain in full force and effect until payment in full of the Secured Obligations and termination of the Financing Agreements, (ii) be binding upon the Debtor, its successors and assigns, and (iii) inure, together with the rights and remedies of US Collateral Agent and the other Agent Parties hereunder, to the benefit of US Collateral Agent and the other Agent Parties, and their respective successors, transferees and assigns. Without limiting the generality of the foregoing clause (iii) and subject to the provisions of the Financing Agreements, US Collateral Agent and/or any other Agent Party may assign or otherwise transfer any of the Secured Obligations and/or the "Obligations" as defined in the applicable Financing Agreement to any other person or entity, and such other person or entity shall thereupon become vested with all the benefits in respect thereof granted to US Collateral Agent and/or such other Agent Party herein or otherwise.

18. Authority of US Collateral Agent. US Collateral Agent shall have and be entitled to exercise all powers hereunder which are specifically delegated to US Collateral Agent in accordance with the terms hereof. US Collateral Agent may perform any of its duties hereunder or in connection with the Collateral by or through agents or employees and shall be entitled to retain counsel and to act in reliance upon the advice of counsel concerning all such matters. US Collateral Agent and its directors, officers, employees, attorneys and agents shall be entitled to rely on any communication, instrument or document believed by it or them to be genuine and correct and to have been signed or sent by the proper person or persons. The Debtor agrees to indemnify and hold harmless US Collateral Agent and the other Agent Parties and any other person acting on behalf of US Collateral Agent or the other Agent Parties from and against any and all costs, expenses, including reasonable fees and expenses of attorneys and paralegals (including charges of inside counsel), claims or liability incurred by US Collateral Agent or any other Agent Parties or such person hereunder, unless such claim or liability shall be due to willful misconduct or gross negligence on the part of US Collateral Agent, the other Agent Parties or such person.

19. Waiver. To the fullest extent it may lawfully so agree, the Debtor agrees that it will not at any time insist upon, claim, plead, or take any benefit or advantage of any appraisal, valuation, stay, extension, moratorium, redemption or similar law now or hereafter in force in order to prevent, delay, or hinder the enforcement hereof or the absolute sale of any part of the Collateral. The Debtor for itself and all who claim through it, so far as it or they now or hereafter lawfully may do so, hereby waives the benefit of all such laws, and all right to have the Collateral marshalled upon any foreclosure hereof, and agrees that any court having jurisdiction to foreclose this Agreement may order the sale of the Collateral as an entirety. Without limiting the generality of the foregoing, the Debtor hereby: (i) authorizes US Collateral Agent in its good faith discretion and without notice to or demand upon the Debtor and without otherwise affecting the obligations of the Debtor hereunder from time to time to take and hold other collateral (in addition to the Collateral) for payment of the Secured Obligations, or any part thereof, and to exchange, enforce or release such other collateral or any part thereof and to accept and hold any endorsement or guarantee of payment of the Secured Obligations, or any part thereof and to release or substitute any endorser or guarantor or any other person granting

security for or in any other way obligated upon any Secured Obligations or any part thereof, and (ii) waives and releases any and all right to require US Collateral Agent to collect any of the Secured Obligations from any specific item or items of the Collateral or from any other party liable as guarantor or in any other manner in respect of any of the Secured Obligations or from any collateral (other than the Collateral) for any of the Secured Obligations.

20. Interpretation of Agreement. Time is of the essence of each provision of this Agreement of which time is an element. All terms not defined herein shall have the meaning set forth in the UCC, except where the context otherwise requires.

21. Reinstatement. This Agreement shall continue to be effective or be reinstated, as the case may be, if at any time any amount received by US Collateral Agent or any other Agent Party in respect of the Secured Obligations is rescinded or must otherwise be restored or returned by US Collateral Agent or any other Agent Party upon the insolvency, bankruptcy, dissolution, liquidation or reorganization of the Debtor or upon the appointment of any intervenor or conservator of, or trustee or similar official for, the Debtor or any substantial part of its assets, or otherwise, all as though such payments had not been made.

22. Final Expression. This Agreement, together with the other Financing Agreements to which the Debtor is a party, is intended by the parties as a final expression of their agreement and is intended as a complete and exclusive statement of the terms and conditions thereof. Acceptance of or acquiescence in a course of performance rendered under this Agreement shall not be relevant to determine the meaning of this Agreement even though the accepting or acquiescing party had knowledge of the nature of the performance and opportunity for objection.

23. Survival of Provisions. All representations, warranties and covenants of the Debtor contained herein shall survive the execution and delivery of this Agreement, and shall terminate only upon the full and final payment and performance by the Debtor of the Secured Obligations and termination of the Financing Agreements.

24. Termination of Agreement. This Agreement shall terminate upon the indefeasible payment in full in cash of the Secured Obligations and termination of the Financing Agreements in accordance with the terms thereof. At such time, US Collateral Agent shall, at the written request of Administrative Borrower, reassign and redeliver to the Debtor all of the collateral of Debtor hereunder which has not been sold, disposed of, retained or applied by US Collateral Agent in accordance with the terms hereof. Such reassignment and redelivery shall be without warranty by or recourse to US Collateral Agent, except as to the absence of any prior assignments by US Collateral Agent of its interest in the Collateral, and shall be at the expense of the Debtor.

25. Release of Collateral. The US Collateral Agent shall, upon the written request of Administrative Borrower, execute and deliver to Administrative Borrower a proper instrument or instruments acknowledging the release of the security interest and liens established hereby on any Collateral: (a) if the sale or other disposition of such Collateral is permitted under the terms of the Loan Agreement and, at the time of such proposed release, both before and after giving effect thereto, no Event of Default has occurred and is continuing; or (b) if the sale or

other disposition of such Collateral is not permitted under the terms of the Loan Agreement, provided that Agent and all Lenders under the Loan Agreement shall have consented to such sale or disposition in accordance with the terms thereof.

26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall together constitute one and the same agreement.

27. Governing Law; Submission To Jurisdiction; Waiver Of Jury Trial; Waiver Of Damages.

(a) The validity, interpretation and enforcement of this Agreement and any dispute arising out of the relationship between any of Debtor and Agent Parties, whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of Illinois but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of Illinois.

(b) Debtor hereby irrevocably consents and submits to the non-exclusive jurisdiction of the state and federal courts located in Cook County, City of Chicago, Illinois and waives any objection based on venue or forum non conveniens with respect to any action instituted therein arising under this Agreement or in any way connected with or related or incidental to the dealings of any of Debtor and Agent Parties in respect of this Agreement or the transactions related hereto, in each case whether now existing or hereafter arising and whether in contract, tort, equity or otherwise, and agrees that any dispute with respect to such matters shall be heard in the courts described above (except that US Collateral Agent on behalf of Agent Parties shall have the right to bring any action or proceeding against any Debtor or its property in the courts of any other jurisdiction which US Collateral Agent deems necessary or appropriate in order to realize on any Collateral at any time granted by Debtor to any Agent Party or to otherwise enforce its rights against Debtor or its property).

(c) Debtor hereby waives personal service of any and all process upon it and consents that all such service of process may be made by certified mail (return receipt requested) directed to its address set forth on the signature pages hereof and service so made shall be deemed to be completed five (5) days after the same shall have been so deposited in the US mails, or, at US Collateral Agent's option, by service upon Debtor in any other manner provided under the rules of any such courts. Within thirty (30) days after such service, Debtor shall appear in answer to such process, failing which Debtor shall be deemed in default and judgment may be entered by US Collateral Agent on behalf of Agent Parties against Debtor for the amount of the claim and other relief requested.

(d) DEBTOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (i) ARISING UNDER THIS AGREEMENT OR (ii) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF ANY OF DEBTOR AND AGENT PARTIES IN RESPECT OF THIS AGREEMENT OR THE TRANSACTIONS RELATED HERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. DEBTOR HEREBY AGREES AND

CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT DEBTOR OR US COLLATERAL AGENT MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AGREEMENT WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF DEBTOR AND US COLLATERAL AGENT TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

(e) No Agent Party shall have any liability to Debtor (whether in tort, contract, equity or otherwise) for losses suffered by Debtor in connection with, arising out of, or in any way related to the transactions or relationships contemplated by this Agreement, or any act, omission or event occurring in connection herewith, unless it is determined by a final and non-appealable judgment or court order binding on such Agent Party that the losses were the result of acts or omissions by such Agent Party constituting gross negligence or willful misconduct. In any such litigation, Agent Parties shall be entitled to the benefit of the rebuttable presumption that they acted in good faith and with the exercise of ordinary care in the performance by it of the terms of the Financing Agreements.

28. Further Assurances. At any time and from time to time, upon the written request of US Collateral Agent and at the sole expense of the Debtor, the Debtor shall promptly and duly execute and deliver any and all such further instruments, schedules and documents and take such further actions as US Collateral Agent may reasonably request to obtain the full benefits of this Agreement and of the rights and powers herein granted, including (i) using commercially reasonable efforts to secure all consents and approvals necessary or appropriate for the assignment to or for the benefit of US Collateral Agent of any Collateral held by the Debtor or in which Debtor has any rights not heretofore assigned, and (ii) filing any additional security agreements with the United States Patent and Trademark Office.

[Next page is signature page]

IN WITNESS WHEREOF, the Debtor has duly executed and delivered this Agreement as of the day and year first above written.

JERVIS B. WEBB COMPANY

By: Jonathan Balu  
Name: Jonathan Balu  
Title: Se VP + CFO

By acceptance hereof as of this 19 day of MARCH, 2004, US Collateral Agent on behalf of itself and the other Agent Parties agrees to be bound by the provisions hereof.

CONGRESS FINANCIAL CORPORATION  
(CENTRAL), an Illinois corporation, as US  
Collateral Agent

By: Mary McGuire  
Title: FIRST V. P.

Address:  
150 South Wacker Drive, Suite 2200  
Chicago, Illinois 60606  
Attention: Jervis Webb Portfolio Manager  
Telephone: (312) 332-0420  
Facsimile: (312) 332-0424

[Signature Page to Trademark Security Agreement of US Borrower]

S-1

TRADEMARK  
REEL: 002824 FRAME: 0537



EXHIBIT A

FORM OF ASSIGNMENT

ASSIGNMENT OF TRADEMARKS

THIS ASSIGNMENT OF TRADEMARKS ("Assignment") is made as of \_\_\_\_\_, 200\_ by and between JERVIS B. WEBB COMPANY, a Michigan corporation ("Assignor"), in favor of CONGRESS FINANCIAL CORPORATION (CENTRAL), as US Collateral Agent for itself and the other Agent Parties (as defined in the Agreement referenced below) ("Assignee").

Recitals

WHEREAS, Assignor and Assignee are parties to that certain Trademark Security Agreement dated as of March \_\_\_, 2004 made by Assignor to Assignee (the "Agreement") providing that under certain conditions specified therein Assignor shall execute this Assignment; and

WHEREAS, the aforementioned conditions have been fulfilled;

NOW THEREFORE, Assignor hereby agrees as follows:

1. Assignment of Trademarks. Assignor hereby grants, assigns and conveys to Assignee for the benefit of Assignee and the other Agent Parties its entire right, title and interest in and to (a) the trademarks, tradenames, trademark registrations and trademark applications listed on Schedule I attached hereto and made a part hereof, and (i) all renewals thereof, (ii) all income, royalties, damages, payments and other proceeds now and hereafter due or payable with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing are sometimes hereinafter referred to, either individually or collectively, as the "Trademarks"), and (b) the goodwill of Assignor's business connected with and symbolized by the Trademarks. The Trademarks and such goodwill are collectively referred to herein as the "Collateral".

2. Representations and Warranties. Assignor represents and warrants that it has the full right and power to make the assignment of the Collateral made hereby and that it has made no previous assignment, transfer, agreement in conflict herewith or constituting a present or future assignment or encumbrance of any or all of the Collateral, except as set forth in the Agreement.

3. Modification. This Assignment cannot be altered, amended or modified in any way, except by a writing signed by the parties hereto.

4. Binding Effect; Governing Law. This Assignment shall be binding upon Assignor and its successors and shall inure to the benefit of Assignee and its successors and assigns. This Assignment shall, except to the extent that federal law or laws of another state apply to the Collateral or any part thereof, be governed by and construed in accordance with the internal laws of the State of Illinois but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of Illinois.

IN WITNESS WHEREOF, Assignor has caused this Assignment to be executed and delivered as of the date first above written.

JERVIS B. WEBB COMPANY

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Exhibit A-2

CHV658960.6

RECORDED: 04/05/2004

TRADEMARK  
REEL: 002824 FRAME: 0539