

REC'D
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Tab settings

To the Honorable Commissioner of Patents **101085241**

Send original documents or copy thereof.

1. Name of conveying party(ies):

Phaze Audio, LLC

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

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

3. Nature of conveyance:

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

Execution Date: March 10, 1999

2. Name and address of receiving party(ies)

Name: Finova Capital Corporation

Internal Address: _____

Street Address: 355 S. Grand Ave, Ste. 2400

City: Los Angeles State: CA ZIP: 90071

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

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No

(Designations must be a separate document from assignment)

Additional name(s) & address(es) attached? Yes No

4. Application number(s) or patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,578,706 DESIGN LOGO
2,154,226 POWERCLASS

Additional numbers attached? Yes No

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

Name: LaValle D. Ptak

Internal Address: Law Office of LaValle Ptak

Street Address: 4420 N. Saddlebag Trail
Suite 102

City: Scottsdale State: AZ ZIP: 85251

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

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

07/07/1999 DMSUYEN 00000171 1578706

DO NOT USE THIS SPACE

01 FC:481 40.00 UP
02 EC:481 25.00 OP

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.

LaValle D. Ptak

Name of Person Signing

Signature

June 29, 1999

Date

Total number of pages including cover sheet, attachments, and document: 14

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

TRADEMARK
REEL: 001924 FRAME: 0539

**COLLATERAL ASSIGNMENT OF TRADEMARKS,
LICENSES AND PATENTS
AND SECURITY AGREEMENT**

THIS COLLATERAL ASSIGNMENT OF TRADEMARKS, LICENSES AND PATENTS AND SECURITY AGREEMENT ("Assignment") is made as of the 10th day of March, 1999, by PHAZE AUDIO, LLC, an Indiana limited liability company, having its chief executive office at 4829 South 38th Street, Phoenix, Arizona 85040 ("Borrower"), for the benefit of FINOVA CAPITAL CORPORATION, a Delaware corporation, having its principal place of business at 355 South Grand Avenue, Suite 2400, Los Angeles, California 90071 (the "Lender").

W I T N E S S E T H:

WHEREAS, Borrower and Lender are parties to that certain Loan and Security Agreement ("Loan Agreement") of even date herewith, which Loan Agreement provides, among other things, for the grant by Borrower to Lender of a security interest in the Trademarks, Licenses and Patents (as defined below);

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

1. **Incorporation of Recitals and Defined Terms.** The foregoing Recitals are incorporated herein and made a substantive part of this Assignment. Capitalized terms used in this Assignment and not otherwise defined herein shall have the meanings ascribed to such terms in the Loan Agreement. All references herein to "trademarks" shall include "service marks" as well.

2. **Collateral Assignment of Trademarks, Licenses and Patents.** To secure the complete and timely satisfaction of all of Borrower's Obligations, Borrower hereby grants to Lender, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale to the extent permitted by law upon the occurrence of an Event of Default, all of Borrower's right, title and interest in and to the following assets:

(i) trademarks, trademark registrations, trade names, trade name registrations, and trademark or trade name applications, including without limitation such as are listed on Schedule A, attached hereto and made a part hereof, as the same may be amended from time to time, but excluding trademark registration applications pending under the intent-to-use provisions

of U.S.C. § 1051(b) until such time as an amendment to allege use or declaration and statement of use has been filed, together with (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 payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, (d) all rights corresponding thereto throughout the world, and (e) the goodwill of the business operated by Borrower connected with and symbolized by any trademarks or trade names (all of the foregoing trademarks, trademark registrations, trade names, trade name registrations, and applications, together with the items described in clauses (a) - (e), are sometimes herein individually and/or collectively referred to as the "Trademarks");

(ii) license agreements, including without limitation such as are listed on Schedule B attached hereto and made a part hereof (but excluding any software licenses to Borrower which by their terms are not assignable or which may not be sublicensed), and the right to prepare for sale, sell, and advertise for sale any inventory now or hereafter owned by Borrower and now or hereafter covered by such licenses (all of the foregoing are hereinafter referred to collectively as the "Licenses");

(iii) patents and patent applications, registered or pending, including without limitation such as are listed on Schedule C, attached hereto, together with all income, royalties, shop rights, damages and payments thereto, the right to sue for infringements thereof, and all rights thereto throughout the world and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof (all of the foregoing are sometimes herein individually and/or collectively referred to as the "Patents").

3. Representations and Warranties. Borrower represents and warrants that:

(a) To the best of Borrower's knowledge, the Trademarks, Licenses and Patents are valid, subsisting, and enforceable, and none of the Trademarks, Licenses, or Patents have been adjudged invalid or unenforceable in whole or in part;

(b) No claim has been made that the use of the Trademarks, Licenses or Patents violates or may violate the rights of any third person; and

(c) Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, Licenses and Patents, free and clear of any liens, charges and encumbrances

including without limitation pledges, assignments, licenses, registered-user agreements, shop rights and covenants by Borrower not to sue third persons, except as disclosed in Schedule D attached hereto.

4. **Subsequent Trademarks and Patents.** If, before Borrower's Obligations have been satisfied in full and Lender's obligation to make further advances under the Revolving Credit Loans facility has terminated, Borrower shall obtain rights to any other patents or new patentable inventions, trademarks or trade names with respect to which Borrower, in the exercise of its reasonable business judgment after taking into account the benefits to be obtained from protecting its rights therein and the costs associated therewith, submits registrations thereof or applications or licenses therefor, the provisions of this Assignment shall automatically apply thereto, Borrower shall be deemed to have granted and does hereby grant to Lender a first mortgage and security interest therein to secure the complete and timely satisfaction of all of Borrower's Obligations, and Borrower shall give Lender prompt written notice thereof.

5. **Conditional License Back to Borrower; Restrictions on Future Agreements.** It is the intention of the parties that this Assignment be construed as a security agreement creating in favor of Lender a lien on the Trademarks, Licenses and Patents, and not as an absolute present assignment of all right, title and interest in and to the Trademarks, Licenses and Patents to Lender. If, however, this Assignment were at any time interpreted to constitute a present and absolute assignment of the Trademarks, Licenses and Patents to Lender, it is the desire of the parties hereto that Lender grant a license to Borrower in the Trademarks, Licenses and Patents so assigned, subject to the limitations set forth in this Section 5. Unless and until there shall have occurred and be continuing an Event of Default, Lender hereby grants to Borrower, subject to the provisions of Section 6 hereof, the exclusive, nontransferable right and license, subject to exceptions disclosed in Schedule D attached hereto, for Borrower's own benefit and account and none other, to (i) use the Trademarks on and in connection with products sold by Borrower, and to (ii) make, have made for it, use and sell the inventions disclosed and claimed in the Patents. If any Event of Default shall have occurred and be continuing, Borrower's license under the Trademarks and Patents as set forth above shall terminate (unless an extension shall be consented to by Lender) and Lender shall have all of the rights and remedies described herein and in the Loan Agreement. Borrower agrees that until Borrower's Obligations shall have been satisfied in full and the security interest granted hereby has been released, Borrower will not, without Lender's prior written consent, enter into any agreement (for example, a license agreement) which is inconsistent with Borrower's obligations under this Assignment, and Borrower 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 enforceability of the rights transferred to Lender under this Assignment.

6. **Lender's Right to Inspect.** Lender shall have the rights, at any time during Borrower's regular business hours and from time to time, to inspect Borrower's premises and to examine Borrower's books, records and operations, including, without limitation, Borrower's quality control processes. From and after the occurrence of an Event of Default and the giving by Lender of written notice to Borrower of Lender's intention to enforce its rights and claims against any of the Trademarks, Licenses and Patents, Borrower agrees that Lender, or a conservator appointed by Lender, shall have the right to establish such additional product quality controls as Lender, or said conservator, in its sole judgment, may deem necessary to assure maintenance of the quality of products sold by Borrower under the Trademarks. For so long as this Assignment is in effect, Borrower agrees (i) not to sell or assign its interest in, or grant any license under, the Trademarks, Licenses or Patents, without the prior written consent of Lender; (ii) to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with the quality of said products as of the date hereof; (iii) not to change the quality of said products without Lender's express written consent; and (iv) to provide Lender, at least quarterly, with a certificate of the chairman or vice chairman of the board or president or chairman of the executive committee of Borrower certifying Borrower's compliance with the foregoing.

7. **Termination of Lender's Security Interest.** This Assignment is made for collateral purposes only. Upon payment and performance in full of the Borrower's Obligations and release of the security interests granted to Lender by Borrower hereunder, Lender shall execute and deliver to Borrower all assignments, termination statements and other instruments as may be necessary or proper to terminate Lender's security interest in the Trademarks, Licenses and Patents, subject to any disposition thereof which may have been made by Lender pursuant hereto, or pursuant to the Loan Agreement.

8. **Duties of Borrower.** Borrower shall have the duty (i) to observe all covenants concerning Trademarks, Patents and Licenses contained in the Loan Agreement, (ii) to prosecute diligently, consistent with sound business judgment and practices, any trademark application or patent application which is part of the Trademarks or Patents respectively, pending as of the date hereof or thereafter until the Borrower's Obligations shall have been paid and performed in full, and (iii) to preserve and maintain, consistent with sound business judgment and practices, all rights in trademarks, trade names, patents, and trademark, trade name and patent applications and registrations which are part of the Trademarks and Patents. In addition to the foregoing, at any time when there exists an Event of Default, upon the request of Lender, Borrower agrees to execute such documents and instruments as are necessary or appropriate to effectuate an absolute, present assignment of the Trademark, Licenses and Patents to Lender. Any expenses or filing fees incurred in connection

with such applications or the maintenance of the Trademarks and Patents, or in connection with any assignments thereof, shall be borne by Borrower. Borrower shall not abandon any right to file an application with respect to potential new patents, trademarks or trade names unless Borrower, in the exercise of its reasonable business judgment, has determined that the benefits to be obtained from protecting such rights are not reasonably likely to exceed the costs associated with pursuing such protection. In the event Borrower determines that the benefits to be obtained from protecting such rights justify the costs associated therewith and submits an application with respect to a new trademark, trade name or patent, then Borrower shall not abandon such pending application, trademark, trade name, or patent without the consent of Lender, which consent shall not be unreasonably withheld.

9. **Lender's Right to Sue.** From and after the occurrence of an Event of Default and the giving by Lender of written notice to Borrower of Lender's intention to enforce its rights and claims against any of the Trademarks, Licenses and Patents, Lender shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Licenses, Trademarks or Patents, and any licenses thereunder, and, if Lender shall commence any such suit, Borrower shall, at the request of Lender, do any and all lawful acts and execute any and all proper documents required by Lender in aid of such enforcement, and Borrower shall promptly, upon demand, reimburse and indemnify Lender for all costs and expenses incurred by Lender in the exercise of its rights under this Section 9.

10. **Waivers.** No course of dealing between Borrower and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Loan 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.

11. **Severability.** The provisions of this Assignment are severable, and if any clause or provisions 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 provisions, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provisions in any other jurisdiction, or any other clause or provision of this Assignment in any jurisdiction.

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

13. **Cumulative Remedies; Power of Attorney.** All of Lender's rights and remedies with respect to the Trademarks, Licenses and Patents, whether established by this Assignment, by the Loan Agreement, or by any other agreements or

by law, shall be cumulative and may be exercised singularly or concurrently. Borrower hereby authorizes Lender to make, constitute and appoint any officer or agent of Lender as Lender may select, in its sole discretion, as Borrower's true and lawful attorney-in-fact, with power (i) at any time, to (a) endorse Borrower's name on all applications, documents, papers and instruments necessary or desirable for the Lender in the use of the Trademarks, Licenses or Patents, or (b) take any other actions with respect to the Trademarks, Licenses or Patents as the Lender deems in the best interest of the Lender, and (ii) from and after the occurrence of an Event of Default and the giving by Lender of written notice to Borrower of Lender's intention to enforce its rights and claims against any of the Trademarks, Licenses or Patents, to (a) grant or issue any exclusive or nonexclusive license under the Trademarks or Patents to anyone, or (b) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks, Licenses or Patents to anyone. Lender hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until the Borrower's Obligations shall have been paid and performed in full or the security interests granted to Lender by this Assignment have been released. Borrower acknowledges and agrees that this Assignment is not intended to limit or restrict in any way the rights and remedies of Lender under the Loan Agreement, but rather is intended to facilitate the exercise of such rights and remedies. Lender shall have, in addition to all other rights and remedies given it by the terms of this Assignment, all rights and remedies 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, Licenses or Patents may be located.

14. **Binding Effect; Benefits.** This Assignment shall be binding upon the Borrower and its respective successors and permitted assigns and shall inure to the benefit of Lender, its nominees and assigns.

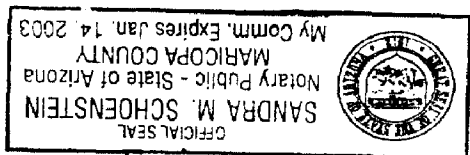
15. **Governing Law.** This Assignment shall be deemed to have been executed and delivered in Phoenix, Arizona, and shall be governed by and construed in accordance with the internal laws (as opposed to conflicts of law provisions) of the State of Arizona.

16. **Counterparts; Facsimile Execution.** This Assignment may be executed in any number of separate counterparts, all of which, when taken together, shall constitute one and the same instrument, admissible into evidence, notwithstanding the fact that all parties did not sign the same counterpart. Delivery of an executed counterpart of this Assignment by telefacsimile shall be equally as effective as delivery of a manually executed counterpart hereof. Any party delivering an executed counterpart of this Assignment by telefacsimile shall also deliver a manually executed counterpart hereof, but the failure to deliver a manually executed counterpart hereof shall not affect the validity, enforceability, and binding effect of this Assignment.

STATE OF Arizona)
) ss.
COUNTY OF Maricopa)

On this the 10th day of March, 1999, before me, Sandra M. Schoenstein the undersigned officer, personally appeared Carleton S. Breed, who acknowledged himself/herself to be the Vice President of FINOVA Capital Corporation, a Delaware corporation, and that he, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself/herself as such officer.

In witness whereof I hereunto set my hand and official seal.



Sandra M. Schoenstein
Notary Public

My Commission Expires:

 /

INTELLECTUAL PROPERTY SCHEDULE

ARIZONA TRADEMARKS

<u>Name</u>	<u>Registration No.</u>	<u>Date of Registration</u>	<u>Status</u>
Precision Power & Design	26,782	November 4, 1988	Renewed 10/29/98
Precision Power & Design	26,783	November 4, 1988	Renewed 10/29/98
Precision Power & Design	26,784	November 4, 1988	Renewed 10/29/98
Precision Power & Design	26,785	November 4, 1988	Renewed 10/29/98
Precision Power & Design	26,786	November 4, 1988	Renewed 10/29/98
Precision Power & Design	26,787	November 4, 1988	Renewed 10/29/98
Precision Power & Design	26,788	November 4, 1988	Renewed 10/29/98
Precision Power & Design	26,789	November 4, 1988	Renewed 10/29/98

ARIZONA TRADENAMES

<u>Name</u>	<u>Registration No.</u>	<u>Date of Registration</u>	<u>Status</u>
Precision Power, Inc.	135832	October 19, 1994	Renewable 10/19/99

U.S. TRADEMARKS

<u>Name</u>	<u>Registration No.</u>	<u>Date of Registration</u>	<u>Status</u>
DESIGN LOGO	1,578,706	January 23, 1990	Renewable July 23, 1999
POWERCLASS	2,154,226	April 28, 1998	Renewable 10/28/07

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SCHEDULE A
TRADEMARKS
Page 1 of 2

FROM : PRECISION POWER PHRZE AUDIO FAX NO. : 1 602 437 4427 Feb. 25 1999 04:38F

TRADEMARK
REEL: 001924 FRAME: 0548

FOREIGN TRADEMARKS

<u>Name</u>	<u>App./Reg. No.</u>	<u>Date of App./Reg.</u>	<u>COUNTRY</u>
PRECISION POWER	94/10906	November 23, 1994	Malaysia
"DESIGN MARK"	94/10907	November 23, 1994	Malaysia
PRECISION POWER	33/4941	May 30, 1997	Japan
DESIGN MARK	6-109578	October 31, 1994	Japan
PRECISION POWER	2907645	June 8, 1995	Germany
DESIGN MARK	2907644	June 8, 1995	Germany
PRECISION POWER	9411/94	October 28, 1994	Singapore
DESIGN MARK	9412/94	October 28, 1994	Singapore
Precision Power & Design	376797	September 30, 1997	Korea
PRECISION POWER	94-43499	October 28, 1994	Korea
DESIGN MARK	332704	January 29, 1996	Korea
PPI & DESIGN	376796	September 30, 1997	Korea
PRECISION POWER	465066	October 25, 1996	Canada
DESIGN MARK	404958	November 13, 1992	Canada

FOREIGN SERVICE MARKS

<u>Name</u>	<u>App./Reg. No.</u>	<u>Date of App./Reg.</u>	<u>Country</u>
PRECISION POWER	403330	October 2, 1992	Canada

SCHEDULE B

Licenses

None

U.S. PATENTS/APPLICATIONS

<u>Name</u>	<u>App/Patent No.</u>	<u>Date of App./Patent</u>
Flat-Panel Speaker	5,701,359	12/23/97
Fiber-Honeycomb-Fiber Sandwich Speaker	08/955,254	10/21/97

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**SCHEDULE C
PATENTS**

SCHEDULE D

**Liens, Charges and Encumbrances
Affecting Trademarks, Licenses and Patents**

None