

FORM PTO-1618A
Expires 06/30/99
OMB 0651-0027

04-26-2000

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK



101309357

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- ☐ New
- ☐ Resubmission (Non-Recordation)
Document ID #
- ☐ Correction of PTO Error
Reel # Frame #
- ☒ Corrective Document
Reel # 1637 Frame # 0018

Conveyance Type

- ☐ Assignment ☐ License
- ☐ Security Agreement ☐ Nunc Pro Tunc Assignment
Effective Date
Month Day Year
- ☐ Merger
- ☐ Change of Name
- ☒ Other See attached page

Conveying Party

☐ Mark if additional names of conveying parties attached

Name Douglas Battery Manufacturing Company, Inc.

Execution Date
Month Day Year
 04251997

Formerly

- ☐ Individual ☐ General Partnership ☐ Limited Partnership ☒ Corporation ☐ Association
- ☐ Other
- ☒ Citizenship/State of Incorporation/Organization North Carolina

Receiving Party

☐ Mark if additional names of receiving parties attached

Name Branch Banking and Trust Company

DBA/AKA/TA

Composed of

Address (line 1) Attn: Ricky Brown

Address (line 2) 110 South Stratford Road

Address (line 3) Winston-Salem,

North Carolina

27104

- ☐ Individual ☐ General Partnership ☐ Limited Partnership
- ☐ Corporation ☐ Association
- ☒ Other A National Banking Association

☐ If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

☐ Citizenship/State of Incorporation/Organization

FOR OFFICE USE ONLY

FEE OK

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0451-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

TRADEMARK
REEL: 002026 FRAME: 0967

April 25, 2000
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Attached Page

This is a corrective assignment to release an improperly recorded Trademark Conveyance Document dated the 25th day of April, 1997 and located at Reel #1637, Frame #0018. The Trademark Conveyance Document located at Reel #1637, Frame #0018 improperly assigned a security interest in United States Trademark Registration No. 1,870,437 ("Ultra Charge") to Branch Banking & Trust Company, a national banking association.

FORM PTO-1618B

Expires 06/30/99
OMB 0651-0027

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U.S. Department of Commerce
Patent and Trademark Office

TRADEMARK

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number (336) 721-3742

Name F. Scott Thomas, Esquire

Address (line 1) Womble Carlyle Sandridge & Rice, PLLC

Address (line 2) Post Office Drawer 84

Address (line 3) Winston-Salem, NC 27102

Address (line 4)

PagesEnter the total number of pages of the attached conveyance document
including any attachments.

10

Trademark Application Number(s) or Registration Number(s)☐ Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

1870437

Number of Properties

Enter the total number of properties involved.

1

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 40.00

Method of Payment:

Enclosed ☒Deposit Account ☐

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

50-0517

Authorization to charge additional fees:

Yes

☒

No

☐**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. Charges to deposit account are authorized, as
indicated herein.

F. Scott Thomas

Name of Person Signing

Signature

4-25-00

Date Signed

COLLATERAL ASSIGNMENT OF TRADEMARKS

THIS COLLATERAL ASSIGNMENT OF TRADEMARKS ("Assignment"), made as of the 25th day of April, 1997, between DOUGLAS BATTERY MANUFACTURING COMPANY, a North Carolina corporation having a mailing address of 500 Battery Drive, Winston-Salem, North Carolina 27107, Attention: Mr. Tom Carter ("Assignor"), and BRANCH BANKING AND TRUST COMPANY, a national banking association having a mailing address of Post Office Box 15008, Winston-Salem, North Carolina 27113, Attention: Ricky Brown ("Lender").

RECITALS:

Assignor has received from Lender certain credit facilities in the aggregate principal amount of up to Three Million and No/100 Dollars (\$3,000,000.00) (the "Financial Accommodations") pursuant and subject to a Commitment Letter/Loan Agreement (the "Credit Agreement"), dated as of October 1, 1996, between Assignor and Lender.

In connection with the Financial Accommodations and Credit Agreement, Assignor and Lender have entered into a Forbearance Agreement, dated of even date herewith (the "Forbearance Agreement"), whereby Lender has agreed to forbear collection of the Obligations (as hereinafter defined) subject to the terms and provisions of the Forbearance Agreement.

The Trademarks (as hereinafter defined) have been adopted, used and are being used by Assignor.

In order to induce Lender to enter into the Forbearance Agreement, Assignor desires to assign Assignor's right, title and interest in, to and under the Trademarks to Lender, except as provided herein.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, Assignor and Lender hereby agree as follows:

1. Definitions. In addition to the words and terms elsewhere defined in this Assignment, the following terms shall have the following meanings unless the context indicates a contrary meaning or intent:

(a) "Event of Default" shall mean: (i) the occurrence of an Event of Default under the Credit Agreement, subject, however to the provisions of the Forbearance Agreement; or (ii) the occurrence of an Event of Default under that certain Security Agreement, dated April 25, 1997, executed by the Assignor to the Lender, securing the payment and performance of the Obligations; or (iii) failure of the Assignor to perform, observe or comply with any of the provisions of this Assignment and such failure shall remain uncured for a period of ten (10) days after the date of written notice from the Lender to the Assignor. Notwithstanding the foregoing, if an Event of Default under (iii) in this subparagraph (a) cannot be cured within the ten (10) day period, due to

circumstances beyond Assignor's control, and Assignor shall be making a diligent effort to cure such default, Assignor may have an additional, reasonable period in which to effect such cure. During the term of the Forbearance Agreement, the "Existing Defaults" (as defined in the Forbearance Agreement) shall not constitute Events of Default.

(b) "Obligations" shall mean all past, present and future indebtedness, liabilities and obligations of the Assignor to the Lender of any nature including without limitation those arising in connection with the Financial Accommodations and under the terms of the Credit Agreement and the Forbearance Agreement.

(c) "Trademarks" shall mean the trademarks and trademark applications of the United States which are listed on Schedule A hereto, which trademarks and trademark applications are registered in the United States Patent and Trademark Office.

2. Assignment. Assignor hereby assigns, conveys and transfers to Lender, its successors and assigns, as security for the payment and performance of the Obligations, all of Assignor's right, title and interest in, to and under (i) the Trademarks, (ii) the goodwill of the business symbolized by the Trademarks, (iii) any right to sue for past, present and future infringements and all rights corresponding thereto, and (iv) the registration of the Trademarks with the United States Patent and Trademark Office; provided, however, that until the occurrence and continuance of an Event of Default, the Assignor may continue to use the Trademarks in its businesses and exercise the foregoing rights as if it had not made this Assignment to the Lender.

3. Warranties and Representations of Assignor. Assignor represents and warrants that:

(a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable;

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

(c) The Trademarks and all rights associated with the registration thereof with the United States Patent and Trademark Office are solely and exclusively owned by Assignor and have not heretofore been assigned, conveyed or transferred by Assignor;

(d) Assignor has the right to make this Assignment; and

(e) This Assignment will not violate any other agreement to which Assignor is a party or by which the assets of Assignor are bound.

4. Duties of Assignor. Assignor shall have the duty, through counsel acceptable to Lender, to prosecute diligently trademark applications of the Trademarks pending as of the date of this Assignment or thereafter, if any, until the Obligations shall have been paid in full, to file and

prosecute opposition and cancellation proceedings and to do any and all acts which are necessary or desirable to preserve and maintain all rights in the Trademarks. Any expenses incurred in connection with the Trademarks shall be borne by Assignor. The Assignor shall not abandon any Trademark without the consent of Lender, which consent shall not be unreasonably withheld. It is understood that this Assignment shall not impose, and Lender shall not have, any duty or responsibility with respect to any registration, renewal, protection, maintenance, or any other matters related to the Trademarks.

5. Termination. This Assignment shall terminate and Lender shall reassign all of its right, title and interest in the Trademarks to Assignor promptly upon the payment and performance in full by the Assignor of all Obligations.

6. Inconsistent Agreements. Assignor agrees that, until all of the Obligations shall have been satisfied in full, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Assignor's obligations under this Assignment, without Lender's prior written consent.

7. Future Trademarks. If, before the Obligations shall have been satisfied in full, Assignor shall obtain rights to any future trademarks, the provisions of paragraph 2 hereof shall automatically apply thereto and Assignor shall give Lender prompt written notice thereof. Assignor authorizes Lender to modify this Assignment by amending Schedule A to include any future trademarks and trademark applications hereunder.

8. Assignors' Right To Use. Unless and until there shall have occurred and be continuing an Event of Default, Lender hereby grants to Assignor the exclusive, nontransferable right and license to use the Trademarks on and in connection with products sold by Assignor and to exercise the rights set forth in paragraph 2 hereof 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 hereby granted to Assignor, without the prior written consent of Lender.

9. Remedies. If any Event of Default shall have occurred and be continuing, Assignor's license under the Trademarks as set forth in paragraph 8 shall terminate forthwith, and Lender 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 may be located and, without limiting the generality of the foregoing, Lender may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Assignor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon all or from time to time any of the Trademarks, or any interest which Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to Assignor. Notice of any sale or other disposition of the Trademarks shall be given to Assignor in accordance with applicable law before

the time of any intended public or private sale or other disposition of the Trademarks is to be made. At any such sale or other disposition, Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of Assignor, which right is hereby waived and released.

10. Attorney-In-Fact. If any Event of Default shall have occurred and be continuing, Assignor hereby authorizes and empowers Lender to make, constitute and appoint any officer or agent of Lender, as Lender may select in its exclusive discretion, as Assignor's true and lawful attorney-in-fact, with the power to endorse Assignor's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to any third person, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to any third person. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Assignment.

11. Fees, Costs and Expenses. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses incurred by Lender in connection with the preparation of this Assignment and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, shall be borne and paid by Assignor on demand by Lender and until so paid shall be added to the principal amount of Obligations.

12. No Waiver. No course of dealing between Assignor 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 Credit Agreement or the Forbearance 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.

13. Rights and Remedies Cumulative. All of Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Forbearance Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

14. 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 clause or provision of this Assignment in any jurisdiction.

15. Modification. This Assignment is subject to modification only by a writing signed by the parties, except as provided in paragraph 7 hereof.

16. Binding Effect. The benefits and burdens of this Assignment shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

17. Paragraph Headings. The titles to the paragraphs of this Assignment are solely for the convenience of the parties and shall not be used to explain, modify, simplify or aid in the interpretation of the provisions of this Assignment.

IN WITNESS WHEREOF, the Assignor and the Lender have executed this Assignment under seal on the day and date first appearing above.

ASSIGNOR:

DOUGLAS BATTERY MANUFACTURING
COMPANY, a North Carolina corporation

ATTEST:

G. Walker Douglas
Name: G. Walker Douglas
Title: (Assistant) Secretary

By: Thomas A. Carter
Name: Thomas A. Carter
Title: (Vice) President

[CORPORATE SEAL]

LENDER:

BRANCH BANKING AND TRUST COMPANY, a
national banking association

ATTEST:

Robert L. Briggs Jr.
Name: Robert L. Briggs Jr.
Title: (Assistant) Secretary

By: Ricky K. Brown
Name: Ricky K. Brown
Title: (Vice) President

[CORPORATE SEAL]

STATE OF NORTH CAROLINA)
)
COUNTY OF Davidson)

I, Sharon M. Williams, a Notary Public, certify that G. Walker Douglas personally came before me this day and acknowledged that he/she is Secretary of DOUGLAS BATTERY MANUFACTURING COMPANY, a North Carolina corporation, and that, by authority duly given and as the act of the corporation, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by himself/herself as its Secretary.

Witness my hand and notarial stamp or seal, this 7th of July, 1997.

Sharon M. Williams
Notary Public

Commission Expires:

September 16, 2001

STATE OF NORTH CAROLINA)
)
COUNTY OF Forsyth)

I, Lorraine Rudlay Hawryluk, a Notary Public, do hereby certify that Robert L. Boggs, Jr. personally appeared before me this day and acknowledged that he/~~she~~ is Assistant Secretary of BRANCH BANKING AND TRUST COMPANY, a national banking association, and that, by authority duly given and as the act of the association, the foregoing instrument was signed in its name by its Vice President, sealed with its corporate seal, and attested by himself/~~herself~~ as its Assistant Secretary.

Witness my hand and notarial stamp or seal, this 10th of July, 1997.

Lorraine Rudlay Hawryluk
Notary Public

Commission Expires:

My Commission Expires July 26, 2000



Douglas Battery Manufacturing Company.
Trademarks

Trademark	Registered Date	Registration No.	Comments
Agricharged (Farmland)	6/2/92	1,689,950	
Ambassador	10/15/96	2,008,841	
Aquatroll	2/4/97	2,035,352	
Astro Lite (BAI)	2/15/66	803,684	6/27/97 -- Kilpatrick Stockton to follow up with TBC.
	3/23/93	1,759,627	6/27/97 -- Received original Certificate from Kilpatrick Stockton.
	11/5/96	2,013,303	6/27/97 -- Received original Certificate from Kilpatrick Stockton.
BAI	7/13/82	1,200,919	6/27/97 -- Copies only. TBC could not locate original Certificates. (Kilpatrick Stockton)
Battery Express	3/3/87	1,430,949	6/27/97 -- Received original Certificate from Kilpatrick Stockton.
	3/7/89	1,528,722	6/27/97 -- Received original Certificate from Kilpatrick Stockton.
Captain	9/27/94	1,855,638	
Climate Master	7/23/96	1,988,771	
Connect with a Leader			Applied for 3/14/97. US Trademark Application S/N 75 / 257,482
"D" Automotive	8/4/87	1,450,558	
"D" Industrial	4/22/86	1,391,098	
Douglas	3/16/71	909,998	
Energy Lock	9/29/91	1,171,052	
First Mate	6/13/95	1,898,666	
Giant	1/1/91	1,629,858	
Guardian	5/27/97	2,064,276	6/23/97 -- Received original Certificate from Kilpatrick Stockton.
Heat Protector (BAI)	10/1/95	1,873,159	6/27/97 -- Received original Certificate from Kilpatrick Stockton.
Heat Resistor (BAI)	7/26/94	1,847,270	Assigned to TBC 5/97.

Schedule A (1 of 2)



Douglas Battery Manufacturing Company
Trademarks

Schedule A (2 of 2)

Trademark	Registered Date	Registration No.	Comments
Legacy	6/8/93	1,775,785	
Lion Logo			Application # 74 / 683,582.
OMNI	8/27/85	1,356,446	
Posi-Start (BAI)	8/1/89	1,549,976	6/27/97 -- Received original Certificate from Kilpatrick Stockton.
Roadhawk	5/16/95	1,893,943	
Safeguard (BAI)	7/23/91	1,651,911	6/27/97 -- Received original Certificate from Kilpatrick Stockton.
Sure Shot (BAI)	8/28/84	1,291,969	6/27/97 -- Kilpatrick Stockton to follow up with TBC.
The Battery Terminal	6/9/87	1,442,561	
The Cruiser (BAI)	3/22/83	1,231,759	6/27/97 -- Copies only; TBC could not locate original Certificates. (Kilpatrick Stockton)
The Force	12/30/86	1,422,562	
Ultra-Charger	12/27/94	1,876,437	Issued to Hobart Brothers
Want to Start Something	10/28/86	4,414,764	
XL 660 (Farmland)	10/11/88	1,507,935	
XP 1400 (Farmland)	10/11/88	1,507,934	

cc: Tom Carter

CTD \ Files \ Trade-Ma . xls

7/22/97