

FORM PTO-1618A
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U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

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RECORDATION FORM COVER SHEET
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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 # Frame #

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
Effective Date
Month Day Year
- Merger
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year

Formerly

- Individual General Partnership Limited Partnership Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKATA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

- Individual General Partnership Limited Partnership
- Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

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.)

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Mail documents to be recorded with required cover sheet(s) information to:

REEL: 002085 FRAME: 0784

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

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages Enter the total number of pages of the attached conveyance document including any attachments. #

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)		
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1,785,198"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties Enter the total number of properties involved. #

Fee Amount Fee Amount for Properties Listed (37 CFR 3.41): \$

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: #

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.

George M. Taulbee George M. Taulbee May 23, 2000
Name of Person Signing Signature Date Signed

ASSET PURCHASE AGREEMENT

DATED AS OF NOVEMBER 7, 1996

AMONG

ACTION PERFORMANCE COMPANIES, INC.,

SII ACQUISITION, INC.,

SPORTS IMAGE, INC., AND

R. DALE EARNHARDT AND

TERESA H. EARNHARDT

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ASSET PURCHASE AGREEMENT

AGREEMENT dated as of November 7, 1996, among ACTION PERFORMANCE COMPANIES, INC., an Arizona corporation ("Buyer"); SPORTS IMAGE, INC., a North Carolina corporation ("Seller"); SII ACQUISITION, INC., an Arizona corporation ("Designated Subsidiary"); and R. DALE EARNHARDT and TERESA H. EARNHARDT (together "Shareholder").

Buyer desires to acquire, and Seller desires to transfer, substantially all of the assets, properties, rights, and goodwill of Seller upon the terms and conditions set forth in this Agreement.

To facilitate the transactions contemplated hereby, Buyer has formed Designated Subsidiary, which is a wholly owned subsidiary of Buyer and has not conducted any business activities prior to the date of this Agreement (the "Closing Date"). Shareholder owns all the capital stock of Seller.

NOW, THEREFORE, in consideration of the premises and of the mutual covenants set forth herein, the parties agree as follows:

SECTION 1 TRANSFER OF ASSETS

1.1 Purchase and Sale of Assets. Based upon and subject to the representations, warranties, covenants, agreements, and other terms and conditions set forth in this Agreement, Seller hereby sells, conveys, transfers, assigns, and delivers, and Designated Subsidiary hereby purchases, acquires, and accepts, as provided herein, all of the assets, properties, rights, and goodwill of Seller of every kind and description, wherever located, including, without limitation, (a) all assets and properties, tangible or intangible, real, personal or mixed, (b) notes and accounts receivables, (c) computer equipment, (d) office and warehouse equipment, (e) vehicles, (f) reserves, (g) prepayments, (h) inventories, (i) deposits, (j) bank accounts, (k) cash and securities, (l) claims and rights under contracts, agreements, leases, and commitments of Seller of whatever nature (including all agreements and contract arrangements with R. Dale Earnhardt), (m) the name "Sports Image, Inc.", (n) all computer programs, data bases, records, systems, and processes and all know how, information, and trade secrets relating thereto, and (o) all books and records of Seller relating to Seller's business. The assets, properties, rights, and goodwill conveyed, transferred, assigned, and delivered by Seller are sometimes herein called the "Transferred Assets" and shall include, without limitation, all of the assets and properties shown on or reflected in the Balance Sheet of Seller as at September 30, 1996 (the "Base Balance Sheet") and all assets and properties acquired by Seller after the date of the Base Balance Sheet and to the Closing Date. There is, however, excluded from the assets and properties sold and purchased pursuant to this Agreement, (i) any assets and properties disposed of by Seller since September 30, 1996 in the ordinary course of business, (ii) Seller's corporate franchises, stock record books, corporate record books containing the minutes of meetings of directors and shareholders, and such other records as have to do exclusively with Seller's organization or stock capitalization, and (iii) Seller's tax and employee records.

1.2 Assumption of Liabilities. Designated Subsidiary hereby assumes, and Buyer shall cause Designated Subsidiary to pay or discharge when due, all debts, obligations, and liabilities of Seller reflected and accrued on the Base Balance Sheet or incurred and accrued after the date of the Base Balance Sheet in the ordinary course of business and all other debts, obligations, and liabilities of Seller specifically listed in the Seller's Disclosure Schedule described in Section 3.1; provided, however, that Designated Subsidiary does not assume, and Buyer shall have no obligation to cause Designated Subsidiary to pay or discharge when due, any debts, obligations, or liabilities of Seller (a) that are in existence on the date of the Base Balance Sheet and do not appear thereon or in the Seller's Disclosure Schedule, (b) that arise under agreements and commitments that have not been assigned to Designated Subsidiary pursuant to this Agreement, (c) the existence of which would conflict with or constitute a breach of any representation, warranty, covenant, or agreement made by Seller in this Agreement, except to the extent disclosed in the Seller's Disclosure Schedule, (d) that arise in connection with lawsuits, which are not reflected in the Base Balance Sheet or as described in Seller's Disclosure Schedule, brought against Seller based on any circumstances that occurred on or prior to the Closing Date, (e) that arise by reason of or for any default, breach, or penalty of or by Seller under any agreement or commitment, which are not reflected in the Base Balance Sheet or as described in the Seller's Disclosure Schedule, (f) that related to any federal, state, or local income.

sales, personal property, transfer, or other taxes, if any, which may be imposed on Seller in connection with the transactions contemplated by this Agreement or the liquidation and dissolution of Seller, or (g) that arise in connection with negotiating the terms of this Agreement, effecting the transactions contemplated by this Agreement, and liquidating or dissolving Seller, including the fees and expenses of Seller's legal counsel, accountants, and other consultants and advisers.

SECTION 2 PURCHASE PRICE

2.1 **Purchase Price.** The purchase price for the Transferred Assets acquired pursuant to Section 1.1, in addition to the assumption of liabilities pursuant to Section 1.2, is an amount equal to \$30,000,000 consisting of (a) a promissory note of Buyer or Designated Subsidiary ("Buyer's Promissory Note") in the principal amount of \$24,000,000 due and payable on January 2, 1997 together with interest on the unpaid principal balance at a rate of 8% per annum, plus (b) \$6,000,000 in shares of Common Stock of Buyer ("Buyer's Common Stock") valued at \$14.875 per share, less any dividends or other distributions to the shareholders of Seller paid between the date of the Base Balance Sheet and the Closing Date that exceed the amount of Shareholder's tax obligation for Seller through October 31, 1996, which amount, if any, shall be deducted from the promissory note portion of the purchase price.

2.2 **Allocation of Purchase Price.** Buyer and Seller agree that the total purchase price (including liabilities assumed) for the assets and properties purchased pursuant to this Agreement shall be allocated to those assets and properties as set forth in Exhibit A as prepared by Buyer, which shall be attached to this Agreement within 60 days after the date hereof. Buyer and Seller agree that the allocation set forth in Exhibit A shall have been made in accordance with the requirements of Section 1060 of the Internal Revenue Code of 1986, as amended and any applicable Treasury Regulations promulgated thereunder. Buyer and Seller, each at its own expense, also agree to file appropriate forms with the Internal Revenue Service setting forth the information required to be furnished to the Internal Revenue Service by Section 1060 and the applicable Treasury Regulations thereunder. In consideration for agreeing to such allocation and the structure of the transactions contemplated hereby, Buyer shall cause Designated Subsidiary to pay to or to the order of Seller, not later than 90 days after the end of each year during the 15-year period following the date of this Agreement, an amount equal to the lesser of (a) 10% of the federal tax savings for such year resulting from tax deductible good will relating to the transaction contemplated hereby or (b) \$66,000.

SECTION 3 REPRESENTATIONS AND WARRANTIES

3.1 **Representations and Warranties of Seller and Shareholder.** Except as otherwise set forth in the Seller Disclosure Schedule heretofore delivered by Seller to and acknowledged as received by Buyer, Seller and Shareholder jointly and severally represent and warrant to Buyer and Designated Subsidiary as follows:

(a) **Due Incorporation, Good Standing, and Qualification.** Seller is a corporation duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation with all requisite corporate power and authority to own, operate, and lease its assets and properties and to carry on its business as now being conducted. Seller is not subject to any material disability by reason of the failure to be duly qualified as a foreign corporation for the transaction of business or to be in good standing under the laws of any jurisdiction. Seller has heretofore delivered to Buyer a list setting forth, as of the date of this Agreement, each jurisdiction in which Seller is qualified to do business.

(b) **Corporate Authority.** Seller has the corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby. The Board of Directors and shareholders of Seller have duly authorized the execution, delivery, and performance of this Agreement. No other corporate proceedings on the part of Seller are necessary to authorize the execution and delivery by Seller of this Agreement or the consummation by Seller of the transactions contemplated hereby. This Agreement has been duly executed and delivered by, and constitutes a legal, valid, and binding agreement of, Seller and Shareholder, enforceable against Seller and Shareholder in accordance with its terms, except that (i) such enforcement may be subject to

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

ACTION PERFORMANCE COMPANIES, INC.

By: [Signature]
President

By: [Signature]
Secretary

[Corporate Seal]

SHI ACQUISITION, INC.

By: [Signature]
President

By: [Signature]
Secretary

[Corporate Seal]

SPORTS IMAGE, INC.

By: [Signature]
President

By: [Signature]
Secretary

[Corporate Seal]

[Signature]
R. Dale Earnhardt

[Signature]
Teresa H. Earnhardt

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EXHIBIT A

ACQUISITION OF ASSETS FROM SPORTS IMAGE, INC.

ALLOCATION OF PURCHASE PRICE

Class I Assets	Cash
Class II Assets	None
Class III Assets	Accounts Receivable Inventory Prepays and Deposits Property Plant & Equipment
Class IV Assets	Goodwill and Other Intangibles
Total Purchase Price	
<u>Purchase Price</u>	
Cash	
Stock	
Note	
Debt Assumed	