

03-26-2002

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



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

Tab settings

102030575

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

1. Name of conveying party(ies):

Brake Pro, Ltd. 3-11-02

- Individual(s) Association General Partnership Limited Partnership Corporation-~~State~~ Province of Ontario Other

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: December 11, 2001

2. Name and address of receiving party(ies)

Name: Tenneco Canada Inc.

Internal Address:

Street Address: 500 North Field Drive

City: Lake Forest State: IL Zip: 60045

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-~~State~~ Ontario 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)

B. Trademark Registration No.(s) 1464501

1807354, 1807355, 1809026

Additional number(s) attached Yes No

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

Name: Mariann R. Murphy

Internal Address: Jenner & Block, LLC

Street Address: One IBM Plaza

City: Chicago State: IL Zip: 60611

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41) \$ 115.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

10-0460

DO NOT USE THIS SPACE

9. Signature.

Mariann R. Murphy Name of Person Signing

Signature

February 26, 2002 Date

16

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

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

03/25/2002 TDIAZI 00000087 100460 1464501

01 FC:481 40.00 CH 02 FC:482 75.00 CH

TRADEMARK REEL: 2468 FRAME: 0955

SCHEDULE "C"

POWER OF ATTORNEY

The undersigned, Brake Pro, Ltd., a corporation incorporation under the laws of the Province of Ontario (hereinafter called the "**Debtor**"), having its head office located at 250 Doney Crescent, Concord, Ontario, L4K 3A8 hereby, upon the occurrence of a default under the security agreement (the "**Security Agreement**") dated as of December 11, 2001 between the Debtor and Tenneco Canada Inc. (hereinafter referred to as the "**Secured Party**"), constitutes and appoints the Secured Party and its successors and permitted assigns, and each of their respective directors, officers, employees, agents and representatives, as the true and lawful attorney of the Debtor with power of substitution in the name of the Debtor for the following purposes only:

1. To do any and all such acts and things and to execute and deliver all such agreements, documents and instruments as the Secured Party in its sole discretion, considers necessary or desirable to carry out the provisions and purposes of the Security Agreement or to exercise any of its rights and remedies thereunder, and to do all acts or things necessary to realize or collect the proceeds;
2. To execute and to file or register with the Canadian Intellectual Property Office any and all documents required to transfer title in and to any of the Intellectual Property Collateral (as that term is defined in the Security Agreement) in the name of the Donor or to take any step appropriate for the preservation or protection of any or all of the Intellectual Property Collateral for the benefit of the Secured Party.

The Debtor hereby acknowledges and ratifies all acts accomplished in connection herewith.

Dated as of this _____ day of _____, 20__.

BRAKE PRO, LTD.

Per: _____
Name:
Title:

SECURITY AGREEMENT (INTELLECTUAL PROPERTY)

A. OBLIGATIONS SECURED

1. The undersigned, Brake Pro, Ltd., a corporation incorporated under the laws of the Province of Ontario (hereinafter called the "**Debtor**"), hereby enters into this Security Agreement with Tenneco Canada Inc. (hereinafter called the "**Secured Party**") for valuable consideration and as security for the payment of all present and future indebtedness of the Debtor to the Secured Party and interest thereon both before and after demand and for the payment and discharge of all other present and future liabilities and obligations, direct or indirect, absolute or contingent, joint or several, of the Debtor to the Secured Party whether as principal or surety (all such indebtedness, interest, liabilities and obligations being hereinafter collectively called the "**Obligations**"). Insofar as it affects personal property located in Ontario, this Security Agreement is governed by the *Personal Property Security Act* (Ontario) (the "**PPSA**").

B. GRANT OF MORTGAGES, CHARGES AND SECURITY INTERESTS

2. The Debtor hereby:
 - (a) assigns, transfers, conveys and grants to the Secured Party a security interest in all of its present and future intellectual property including without limitation, (i) copyrights, (ii) trade-marks, trade names, business names, trade styles, logos and all other forms of business identifiers, (iii) patents, industrial designs and applications, (iv) domain names, and (v) trade secrets and other confidential information and data in any form or format, including without limitation, all know-how obtained, developed or used in or contemplated at any time for use in the business, affairs, undertaking and operations of the Debtor now or hereafter owned generated or acquired, including in each instance all related additions, improvements and accessories thereto and replacements thereof (hereinafter referred to as the "**Intellectual Property Collateral**") (whether registered or unregistered) including without limitation the intellectual property described in Schedule "A" hereto; and

- (b) mortgages and charges in favour of the Secured Party and grants to the Secured Party a security interest in the proceeds arising from any of the assets referred to in this section 2.

For the purposes of this Security Agreement, the Intellectual Property Collateral, the proceeds arising therefrom and all other property and assets of the Debtor referred to in this section 2 are hereinafter collectively called the "**Collateral**".

C. AGREEMENTS OF THE DEBTOR

3. The Debtor and the Secured Party agree that they have not agreed to postpone the time for attachment of the security interests granted hereby with respect to presently existing Collateral of the Debtor and that such security interests shall attach to the Collateral acquired after the date hereof as soon as the Debtor has rights in such Collateral.
4. The Debtor agrees with the Secured Party that, until the Obligations have been satisfied or paid in full:
- (a) it will not, without the prior written consent of the Secured Party, create or suffer to exist any liens upon or assign or transfer as security or pledge or hypothecate any of the Collateral, except to the Secured Party and except for the encumbrances (collectively, the "**Permitted Encumbrances**") referred to in Schedule "B" hereto; and
- (b) it will:
- (i) hold the proceeds received from any direct or indirect dealing with the Collateral in trust for the Secured Party after the security interests granted in this Security Agreement become enforceable;
- (ii) keep the then existing Collateral in good repair, working order and condition according to the nature and description thereof, and the Secured Party may, whenever it deems necessary, either in person or by agent, enter upon the property of the Debtor and inspect the Collateral and the right, title and interest of the Debtor in and to the Intellectual Property

Collateral and the reasonable cost of such inspection shall be payable on demand and added to the Obligations and the Secured Party may make repairs as it deems necessary, and the cost thereof shall be payable on demand and added to the Obligations;

- (iii) make all necessary filings, registrations and other recordations to protect the interest of the Debtor in the Collateral, including without limitation recordations of all its interests in all patents, trade-marks, and copyrights comprised in the Intellectual Property Collateral;
- (iv) perform all covenants required under any third party agreement, including, *inter alia*, promptly paying all required fees, royalties and taxes, to maintain each and every item of Intellectual Property Collateral in full force and effect throughout as applicable;
- (v) maintain all filings, registrations and other recordations relating to any of the Intellectual Property Collateral, including without limitation, timely payment of any renewal and/or maintenance fees;
- (vi) vigorously protect, preserve and maintain all of the right, title and interest of the Debtor in the Intellectual Property Collateral, including without limitation, the duty to prosecute and/or defend against any and all suits concerning validity, infringement, enforceability, ownership or other aspects affecting any of the Intellectual Property Collateral (any expenses incurred in protecting, preserving and maintaining any of the Intellectual Property Collateral shall be borne by the Debtor);
- (vii) upon written request by the Secured Party, execute and deliver any and all agreements, instruments, documents and papers as the Secured Party may reasonably request to evidence the security interest of the Secured Party in the Collateral, including without limiting the foregoing, the Intellectual Property Collateral;

- (viii) refrain from selling, assigning, disposing, licensing or otherwise transferring to any third party any of the right, title or interest of the Debtor in any of the Collateral, including without limitation, the Intellectual Property Collateral other than in the normal course of the business of the Debtor;
- (ix) after default refrain from either directly or indirectly filing any application for registration affecting any of the Intellectual Property Collateral without the prior written consent of the Secured Party;
- (x) strictly comply with every covenant and undertaking given by it to the Secured Party; and
- (xi) comply with valid requirements of any governmental authority pertaining to the operation by the Debtor of its business.

5. The Debtor hereby represents and warrants to the Secured Party (which representations and warranties shall survive until the Obligations have been completely performed and discharged) that:

- (a) all registrations and applications for registration in respect of the Intellectual Property Collateral including all relevant renewals have been duly and properly made, are in full force and effect and are not subject to dispute by any governmental authority or agency and all leases, licenses, and other agreements affecting any of the right, title or interest of the Debtor in any of the Intellectual Property Collateral (collectively, "**Third Party Agreements**") are in good standing;
- (b) the Debtor owns directly or is entitled to use by license or otherwise all patents, trade-marks, trade secrets, copyrights, licenses, technology, know-how, processes and other information and rights with respect to the Collateral, including the Intellectual Property Collateral;

- (c) the Debtor has made all necessary filings, registrations and recordations to protect all of its right, title and interest in the Intellectual Property Collateral, including without limitation, recordations of all such rights, title and interest in related patents, trade-marks and copyrights;
 - (d) to the best of knowledge of the Debtor, no litigation is pending or threatened which contains allegations respecting the validity, enforceability, infringement or ownership of any of the Intellectual Property Collateral, including without limitation, any of right, title or interest of the Debtor in the Intellectual Property Collateral;
 - (e) Schedule "A" lists all of the registered present intellectual property of the Debtor, including without limitation, all registered patents, trademarks and copyrights of the Debtor; and
 - (f) none of the Obligations nor the granting of the Security Interest by the Debtor in favour of the Secured Party constitutes a breach under any Third Party Agreement.
6. The Debtor hereby agrees that it will at all times, both before and after default, do or cause to be done such additional things and execute and deliver or cause to be executed and delivered all such further acts and documents as the Secured Party may reasonably require for the better mortgaging, charging, transferring, assigning, confirming and granting of security interests in the present or future Collateral to the Secured Party.

D. DEFAULT

7. The Obligations shall, at the option of the Secured Party, become payable and the security granted pursuant to this Security Agreement shall become enforceable if upon the occurrence of an Event of Default under and as defined in the Tranche A Note dated the date hereof executed by Debtor in favour of Secured Party in the principal amount of USD \$5,000,000

8. The Secured Party may in writing (and not otherwise) waive any breach by the Debtor of any of the provisions contained in this Security Agreement or any default by the Debtor in the observance or performance of any provision of this Security Agreement; provided always that no waiver by the Secured Party shall extend to or be taken in any manner whatsoever to affect any subsequent breach or default, whether of the same or a different nature, or the rights resulting therefrom.

E. REMEDIES OF THE SECURED PARTY

9. Whenever the security granted pursuant to this Security Agreement shall have become enforceable, and so long as it shall remain enforceable, the Secured Party may proceed to realize such security and to enforce its rights by:

- (a) the appointment by instrument in writing of a receiver or receivers of the Collateral or any part thereof (which receiver or receivers may be any person or persons, whether an officer or officers or employee or employees of the Secured Party or not and the Secured Party may remove any receiver or receivers so appointed and appoint another or others in his or their stead);
- (b) proceedings in any court of competent jurisdiction for the appointment of a receiver or receivers or for sale of the Collateral or any part thereof;
- (c) any other action, suit, remedy or proceeding authorized or permitted hereby or by law or by equity;
- (d) exercising all of the Debtor's rights under all licenses, contracts, agreements or other instruments in writing relating to the Collateral as fully and effectually as if the Secured Party were the absolute owner thereof;
- (e) commencing legal proceedings for and on behalf of and in the name of the Secured Party and at the expense of the Debtor in order to enforce the rights of the Debtor under any licenses, contracts, agreements, or other instruments in writing which may relate to the Collateral.

In addition, the Secured Party may file such proofs of claim and other documents as may be necessary or advisable in order to have its claim lodged in any bankruptcy, winding-up or other judicial proceedings relating to the Debtor.

Any receiver or receivers so appointed shall have power to:

- (i) take possession of and to use the Collateral or any part thereof;
- (ii) borrow money required for the maintenance, preservation or protection of the Collateral or any part thereof or the carrying on of the business of the Debtor;
- (iii) further charge the Collateral in priority to the security interests of this Security Agreement as security for money so borrowed; and
- (iv) sell, lease or otherwise dispose of the whole or any part of the Collateral on such terms and conditions and in such manner as the receiver shall determine.

The Secured Party shall not be responsible for any actions or errors of omission by the receiver or receivers in exercising any such powers.

In addition, the Secured Party may use and possess the Collateral or any part thereof, free from all encumbrances, liens and charges, except Permitted Encumbrances, without hindrance, interruption or denial of the same by the Debtor or by any other person or persons and may lease or sell the whole or any part or parts of the Collateral. Any sale hereunder may be made by public auction, by public tender or by private contract, with or without notice and with or without advertising and without any other formality (except as required by law), all of which are hereby waived by the Debtor to the fullest extent permitted by applicable law. Such sale shall be on such terms and conditions as to credit or otherwise and as to upset or reserve bid or price as to the Secured Party in its sole discretion may seem advantageous. Such sale may take place whether or not the Secured Party has taken possession of the Collateral.

The Debtor agrees to pay to the Secured Party forthwith on demand all expenses incurred by the Secured Party in the preparation, perfection, administration and enforcement of this Security Agreement (including without limitation expenses incurred in considering and protecting or improving the position of the Secured Party, or attempting to do so, whether before or after default), all amounts borrowed by the receiver from the Secured Party as hereinbefore provided and all costs, charges, expenses and fees (including, without limiting the generality of the foregoing, the fees and expenses of any receiver and legal fees on a solicitor and client basis) of or incurred by the Secured Party and by any receiver or receivers or agent or agents appointed by the Secured Party in connection with the recovery or enforcing of payment of any moneys owing hereunder, whether by realization, by taking possession or otherwise. All such sums, together with interest thereon at the rate applicable to the Obligations, shall form part of the Obligations and shall be secured by the security interests granted herein.

No remedy for the realization of the security interests granted herein or for the enforcement of the rights of the Secured Party shall be exclusive of or dependent on any other such remedy, but any one or more of such remedies may from time to time be exercised independently or in combination. The term "receiver" as used in this Security Agreement includes a receiver and manager.

10. Any and all payments made in respect of the Obligations from time to time and moneys realized from any securities held therefor (including moneys realized on any enforcement of this Security Agreement) may be applied to such part or parts of the Obligations as the Secured Party may see fit, and the Secured Party shall at all times and from time to time have the right to change any appropriation as the Secured Party may see fit.

F. RIGHTS OF THE SECURED PARTY

11. The Secured Party may pay and satisfy the whole or any part of any liens, taxes, rates, charges or encumbrances now or hereafter existing in respect of any of the Collateral and such payments together with all costs, charges and expenses which may be incurred in connection with making such payments shall form part of the Obligations and shall be secured by the security interests granted herein. In the event of the Secured Party

satisfying any such lien, charge or encumbrance, it shall be entitled to all the equities and securities of the person or persons so paid and is hereby authorized to obtain any discharge thereof and hold such discharge without registration for so long as it may deem advisable to do so.

12. The Debtor grants to the Secured Party the right to set off against any and all accounts, credits or balances maintained by it with the Secured Party, the aggregate amount of any of the Obligations.
13. The Secured Party, without exonerating in whole or in part the Debtor, may grant time, renewals, extensions, indulgences, releases and discharges to, may take securities from and give the same and any or all existing securities up to, may abstain from taking securities from or from perfecting securities of, may accept compositions from, and may otherwise deal with the Debtor and all other persons and securities as the Secured Party may see fit.
14. Nothing herein shall obligate the Secured Party to extend or amend any credit to the Debtor.
15. The Secured Party may absolutely or otherwise assign, transfer and deliver to any transferee any of the Obligations or any security or any documents or instruments held by the Secured Party in respect thereof to any person, including without limitation to any creditor of the Secured Party by way of security for the obligations owed by the Secured Party to any such creditor, provided that no such assignment, transfer or delivery shall release the Debtor from any of the Obligations; and in the case of any such absolute assignment the Secured Party shall be fully discharged from all responsibility with respect to the Obligations and the security, documents and instruments so assigned, transferred or delivered. Such transferee shall be vested with all powers and rights of the Secured Party under such security, documents or instruments but the Secured Party shall retain all rights and powers with respect to any such security, documents or instruments not so assigned, transferred or delivered. The Debtor shall not assign any of its rights or obligations hereunder without the prior written consent of the Secured Party.

16. The Debtor hereby irrevocably constitutes and appoints the Secured Party and each of its directors, officers, employees, agents and representatives as the true and lawful attorney of the Debtor with power of substitution in the name of the Debtor to do, upon the occurrence of a default hereunder, any and all such acts and things or execute and deliver all such agreements, documents and instruments as the Secured Party, in its sole discretion, considers necessary or desirable to carry out the provisions and purposes of this agreement, or to exercise any of its rights and remedies hereunder, and the Debtor hereby ratifies and agrees to ratify all acts of any such attorney taken or done in accordance with this section 16. Contemporaneously with the execution of this Security Agreement, the Debtor covenants and agrees to execute and deliver to Secured Party the power of attorney set forth in Schedule "C".

MISCELLANEOUS

17. If one or more of the provisions contained herein shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.
18. Upon payment by the Debtor, its successors or permitted assigns, and the fulfillment of all the Obligations and provided that the Secured Party is then under no obligation (conditional or otherwise) to make any further loan or extend any other type of credit to the Debtor, the Secured Party shall, upon request in writing by the Debtor, delivered to the Secured Party at its address as set out in section 23 hereof and at the expense of the Debtor, discharge and release this Security Agreement.
19. This Security Agreement shall be construed in accordance with and be governed by the laws of the Province of Ontario. For the purpose of legal proceedings, this Security Agreement shall be deemed to have been made in the said Province and to be performed therein and the courts of that Province shall have jurisdiction over all disputes which may arise under this Security Agreement. The Debtor hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of such courts, provided always that nothing herein contained shall prevent the Secured Party from proceeding at its election against the Debtor in the courts of any other province, country or jurisdiction.

20. The headings in this Security Agreement are included for convenience of reference only, and shall not constitute a part of this Security Agreement for any other purpose.
21. This Security Agreement is in addition to and not in substitution for any other security now or hereafter held by the Secured Party and shall be general and continuing security notwithstanding that the Obligations shall be at any time or from time to time fully satisfied or paid.
22. This Security Agreement and all its provisions shall enure to the benefit of the Secured Party, its successors and assigns, and shall be binding on the Debtor, its successors and permitted assigns.
23. Any notice, demand or other communication permitted or required to be given hereunder must be given in writing and may be effectively given by delivering the same at the address(es) hereinafter set forth or by sending the same by telecopy to the parties at such addresses. Any notice, demand or other communication so given prior to 5:00 p.m. (Toronto time) on a business day by personal delivery or by telecopy shall be deemed to have been given, received and made on such business day and if so given after 5:00 p.m. (Toronto time) on a business day or a day which is not a business day, such notice, demand or other communication shall be deemed to have been given, made and received on the next following business day. The addresses of the parties for the purposes hereof shall respectively be:

- (a) in the case of the Secured Party, addressed as follows:

Tenneco Canada Inc.
500 North Field Drive
Lake Forest, Illinois 60045

Attention: Paul Novas
Telecopy Number: (847) 482-5125

- (b) in the case of the Debtor, addressed as follows:

Brake Pro, Ltd.
250 Doney Crescent
Concord, Ontario, L4K 3A8

Attention: Chief Financial Officer
Facsimile No.: (416) 213-7164

With a copy to:

Brake Pro, Ltd.
1000 Cobb International Blvd. Suite A1
Kennesaw, GA 30152

Attention: Chief Executive Officer
Facsimile No.: (770) 422-1575

Either party may from time to time notify the other party hereto, in accordance with the provisions hereof, of any change of address which thereafter, until changed by like notice, shall be the address of such party for all purposes of this Security Agreement.

24. In construing this Security Agreement, terms herein shall have the same meaning as defined in the PPSA, unless the context otherwise requires. The personal pronoun "it" or "its" and any verb relating thereto and used therewith shall be read and construed as required by and in accordance with the context in which such words are used. The term "successors" shall include, without limiting its meaning, any corporation resulting from the amalgamation of a corporation with another corporation and, in the case of the Debtor, any new partnership resulting from the admission of new partners or any other change in the Debtor, including, without limiting the generality of the foregoing, the death of any or all of the partners thereof.

IN WITNESS WHEREOF this Security Agreement has been executed by the Debtor as of the 11th day of December, 2001.

BRAKE PRO, LTD.

Per: _____

Name:

Title:

I have the authority to bind the Debtor.

SCHEDULE "A"

Certain Intellectual Property Assets *(Security Agreement, subclause 2(a))*

1. Trade-Marks

(a) Canadian:

- (i) "TE DESIGN" registration no. TMA 426,686 registered April 29, 1994;
- (ii) "CM" registration no. TMA 437,586 registered December 30, 1994;
- (iii) "CM18" registration no. TMA 437,587 registered December 30, 1994;
- (iv) "Integrablok" registration no. TMA 433,401 registered September 16, 1994; and
- (v) "Canadian Metallic" application no. 1027556.

(b) United States:

- (i) "Brake-Pro" registration no. 1,464,501 registered November 10, 1987;
- (ii) "CM" registration no. 1,809,026 registered September 14, 1993;
- (iii) "CM 18" registration no. 1,807,355 registered September 7, 1993; and
- (iv) "Integrablock" registration no. 1,807,354 registered November 30, 1993.

2. Patents

(a) United States:

- (i) "Brake Shoe Assembly with Fastener" issued November 30, 1993 as patent no. 5,255,762.

SCHEDULE "B"

Permitted Encumbrances

(Security Agreement, paragraph 6(a)(ii))

Liens and security interests created in favor of Secured Party by the Security Agreement.

Liens and security interests granted in favour of Congress Financial Corporation.

Liens for taxes, assessments or other governmental charges or levies not yet due and payable, or that are being contested by the Debtor in good faith by appropriate proceedings and in such manner as not to jeopardize the rights of the Secured Party rights in and to the Collateral.

Minor defects or irregularities in title that are not such as to interfere with the development, operation or value of the Collateral and not such as to materially affect title thereto, and,

Undetermined or inchoate materialmen's mechanics', workers', repairers' or employees' liens or other like liens arising in the ordinary course of business and securing obligations that are not delinquent or that have been bonded or the enforcement of which shall have been suspended (but only for the duration of such suspension).