

05-29-2002



FORM PTO-1595  
(Modified)

REC

102105657

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
Attorney Docket No. 5-658

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy thereof.

1. Name of conveying party(ies):  
AMPAK, INC. *522.02*

2. Name and address of receiving party(ies):  
HEAT SEALING EQUIP. MFG. CO., INC.  
4580 East 71<sup>st</sup> Street  
Cleveland, Ohio 44125-1018

3. Nature of conveyance:  
 Assignment  Merger  
 Security Agreement  Change of Name  
 Other: Purchase of Assets Agreement  
Execution Date: June 27, 1994

Express Mail Label No. EL8609 740370 S  
I hereby certify that this paper is being deposited  
with the U.S. Postal Service as Express Mail  
addressed to the Commissioner of Patents and  
Trademarks, Washington, D.C. 20231 on 5/29/02  
*Johnston*

4. Application number(s) or registration number(s):  
If this document is being filed together with a new application, the execution date of the application is:  
A. Application No(s):  
B. Registration No(s):  
934,287

5. Name and address of party to whom correspondence concerning document should be mailed:  
William A. Johnston  
WATTS, HOFFMANN, FISHER & HEINKE CO., L.P.A.  
1100 Superior Avenue, Ste. 1750  
Cleveland, Ohio 44114-2518

6. Total number of applications and patents involved: 1  
7. Total fee (37 C.F.R. §§ 1.21(h), 3.41): \$ 40.00  
 Enclosed  
 Authorized to be charged to deposit account.  
 The Commissioner is hereby authorized to credit any overpayment or to charge any fee deficiencies under 37 C.F.R. § 1.21(h) to our deposit account.  
8. Deposit account number: 23-0630

DO NOT USE THIS SPACE

9. 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.*

William A. Johnston (Reg. No. 47,687) *W.A. Johnston*  
Name of Person Signing Signature  
Date May 22, 2002

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

OFFICE OF PUBLIC RECORDS  
2002 MAY 22 AM 10:06  
FINANCE SECTION

05/29/2002 LMUELLER 00000089 934287  
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TRADEMARK  
REEL: 002514 FRAME: 0959

PURCHASE OF ASSETS OF

AMPAK, INC.

BY

HEAT SEALING EQUIP. MFG. CO., INC.

CLOSING DATE

JUNE 29, 1994

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PARTIES

COUNSEL

Heat Sealing Equip. Mfg. Co., Inc.  
480 East 71st Street  
Cleveland, OH 44125-1018

Hahn Loeser & Parks  
3300 BP America Building  
200 Public Square  
Cleveland, OH 44114

Ronald J. Skalsky, President

N. Herschel Koblenz, Esq.  
Daniel A. DeMarco, Esq.

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Ampak, Inc.  
RC Industries, Inc.  
921 Clemson Highway  
Anderson, SC 29622

Dunaway & Sands  
514 South McDuffie Street  
P.O. Box 1965  
Anderson, SC 29622

Richard J. Cavicchia, President

George L. Sands, Jr., Esq.

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Wachovia Bank of South Carolina  
South Carolina National Bank  
P.O. Box 1907  
Anderson, SC 29622

Samuel F. Albergotti, Esq.  
2106 North Main Street  
Anderson, SC 29621

Christine Richardson, Vice President

**PURCHASE OF ASSETS OF**

**AMPAK, INC.**

**BY**

**HEAT SEALING EQUIP. MFG. CO., INC.**

**CLOSING DATE**

**JUNE 29, 1994**

*(all documents are dated as of the closing date unless otherwise indicated)*

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I. ACQUISITION OF AMPAK, INC.

<u>DOCUMENT</u>	<u>TAB</u>
Letter of Intent from Heat Sealing Equip. Mfg. Co. Inc. ("Heat Sealing") to Ampak, Inc. ("Ampak") regarding the acquisition of the assets of Ampak dated June 17, 1994.	1
Asset Purchase Agreement by and among Heat Sealing, Ampak and RC Industries, Inc. fka C & S Industries, Inc. ("RC").	2
Bill of Sale made by Ampak and RC to Heat Sealing.	3
Contract of Sale between Wachovia Bank of South Carolina, N.A. fka South Carolina National Bank ("Wachovia Bank") and Heat Sealing.	4
Bill of Sale made by Wachovia Bank to Heat Sealing.	5
UCC-3, Partial Release Statement, made by Wachovia Bank referencing South Carolina National Bank as Secured Party and Ampak, Inc. as Debtor and partially releasing original Financing Statement No. 90-008506.	6
UCC-3, Partial Release Statement, made by Wachovia Bank referencing South Carolina National Bank as Secured Party and C & S Industries, Inc. as Debtor and partially releasing original Financing Statement No. 89-044502.	7

UCC-3, Partial Release Statement, made by S.C. JEDA referencing S.C. JEDA as Secured Party and C & S Industries, Inc. as Debtor and partially releasing Original Financing Statement No. 89-006294.	8
Consent of foreclosure by Wachovia Bank.	9
Letter to Nordson Corporation ("Nordson") regarding the Assignments of Patents and Trademarks to Ampak dated June 28, 1994.	10
Ratification of Assignment of Trademark by and between Nordson and Ampak dated June 28, 1994.	11
Opinion letter of Dunaway & Sands as counsel for Ampak, RC, Richard J. Cavicchia and Karen A. Cavicchia.	12
Minutes of Special Meeting of Shareholders and Board of Directors of Ampak dated June 27, 1994.	13
Minutes of Special Meeting of Shareholders and Board of Directors of RC dated June 27, 1994.	14
Action by Unanimous Written Consent of Directors of Heat Sealing.	15

II. LEASE OF 5321 CLEMSON HIGHWAY, ANDERSON, SOUTH CAROLINA

Letter of Intent from Heat Sealing to M.M.A.T. Properties Partnership, a South Carolina partnership, ("M.M.A.T") regarding the lease of the premises located at 5321 Clemson Highway, Anderson, South Carolina dated June 14, 1994.	16
Lease Agreement by and between Heat Sealing and M.M.A.T.	17

III. EMPLOYMENT OF RICHARD J. CAVICCHIA

Letter of Intent from Heat Sealing to Mr. Richard J. Cavicchia regarding employment by Heat Sealing dated June 20, 1994.	18
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Employment Agreement by and between Heat Sealing  
Richard J. Cavicchia.

19

## **HEAT SEAL**

HEAT SEALING EQUIPMENT MFG CO  
4580 EAST 71<sup>ST</sup> STREET  
CLEVELAND, OHIO 44125-1018  
(216) 341-2022  
(800) 342-6329  
FAX: (216) 341-2163

June 17, 1994

Ampak, Inc.  
5321 Clemson Highway  
Anderson, South Carolina 29622  
Attention: Richard J. Cavicchia, President

Re: Acquisition of Assets of Ampak, Inc.

Gentlemen:

This letter will confirm the intentions of Heat Sealing Equip. Mfg. Co., Inc., an Ohio corporation ("Purchaser"), Ampak, Inc. ("Ampak") and RC Industries, Inc., fka C & S Industries, Inc. ("RCI") (collectively, "Sellers") and Richard J. Cavicchia and Karen A. Cavicchia (collectively "Guarantors") with respect to the purchase of substantially all of the assets of Sellers. This letter is a statement of the present intentions of Purchaser, Sellers and Guarantors, and shall not create any rights or obligations on the part of the parties hereto, except as set forth in sections 7 and 9 below. In particular, the intentions of the parties are subject in all respects to the execution and delivery of definitive documentation, the consent or approval of various third parties, and the satisfaction of other conditions, including without limitation those specified below. The principal terms of the purchase will be as follows:

1. Contract of Sale. Sellers, Wachovia Bank of South Carolina, N.A., successor by merger to The South Carolina National Bank ("Bank"), South Carolina Jobs - Economic Development Authority ("JEDA") and Guarantors shall enter into and/or consent to (a) that certain Contract of Sale to be negotiated between Purchaser and Bank, and (b) that certain Contract of Sale to be negotiated between Purchaser and Sellers (collectively, the "Agreements") including the terms and conditions set forth in section 2 below and pursuant to which Purchaser shall acquire the assets specified in Exhibit A hereto (the "Assets").

2. Operative Terms. The Agreements shall be in form and substance acceptable to Purchaser and include the following terms and provisions:

a. The parties acknowledge that Bank has a first priority perfected security interest in all of the Assets, that Sellers are in default and Bank has the right to exercise its remedies, including foreclosure and a public or private sale of the Assets;

b. Bank forecloses on the Assets and Sellers and Guarantors consent to the foreclosure and relinquish all rights to the Assets;

c. Sellers warrant to Bank and its successors that their title to the Assets is free and clear of all liens except those of Bank and the junior liens of JEDA; that the Assets are insured in accordance with their loan agreements with Bank; and there are no executions or seizures of the Assets imminent by the landlord, any taxing authorities, or other creditors;

d. Bank will sell the Assets by private sale on or after June 17, 1994; the private sale shall be advertised appropriately, with notice to the Sellers' landlord, JEDA and the subordinated lenders;

e. Sellers and Guarantors consent to the foreclosure, the commercial reasonableness of the notice and the commercial reasonableness of the sale, and waive all other notice and any claims relating to the secured party sale;

f. Guarantors waive any rights to or claims of subrogation or contribution against the Bank;

g. There are no material adverse changes pending the sale;

h. Appropriate arrangements are made for the retention, compensation and cooperation of key employees pending the sale; and

i. Any court orders reasonably necessary to consummate this transaction are timely obtained.

3. Private Sale. Purchaser shall purchase the Assets from Bank at private sale for a total price of \$175,000 payable in cash, which shall be disbursed \$150,000 to Bank and \$25,000 to JEDA.

4. Names and Other Property. To the extent not acquired from Bank at private sale as part of the Assets, Sellers shall assign to Purchaser all of Sellers' interests, if any, in such Assets including without limitation the Ampak name, for a total price of \$10 payable in cash.

5. Conditions Precedent to Closing. Purchaser shall not directly or indirectly have any obligation hereunder unless and until each of the following conditions precedent has been satisfied in full or waived by the Purchaser:

a. Purchase Documents. Sellers, Bank, JEDA and Guarantors have executed and delivered the Agreements; Purchaser and Mr. Cavicchia have executed and delivered an employment agreement; Purchaser and Sellers' landlord shall have executed and delivered any agreement Purchaser may require; and Purchaser shall have obtained such other purchase documents (collectively, the "Purchase Documents") in form and substance satisfactory to the Purchaser and its counsel containing such representations, warranties and covenants of Sellers and indemnification by Sellers and Guarantors of Purchaser as Purchaser shall require, including without limitation representations and warranties that all taxes have been paid by Sellers;

b. Opinion Letter. Inclusion in the Purchase Documents of a provision requiring Sellers to deliver an opinion letter of counsel covering such issues as Purchaser shall reasonably request;

c. Consent. Purchaser's receipt and approval of the written consent of all persons and governmental agencies whose consent is necessary or advisable for consummation of this transaction;

d. Due Diligence. Purchaser's approval of the results of the investigation to be undertaken by Purchaser and its counsel and auditors; and

e. Material Adverse Change. No material adverse change in the Assets or the business of Sellers, including the entry of any court order



adversely affecting Sellers' rights in any pending or future litigation, since the date of execution by Sellers of this letter of intent.

f. Change of Corporate Name. After the Closing, Ampak shall not use any of its trade names, including "Ampak" or any variant thereof, and Sellers shall promptly file or cause to be filed an amendment to Ampak's Articles of Incorporation to change its name to a name which does not include "Ampak" or any variant thereof.

6. Investigation. Sellers will provide current, timely and accurate financial and other material information about the Assets and Sellers to Purchaser as and when it becomes available. In addition, Purchaser, its auditors, attorneys and agents will be provided with originals of all documents, agreements, correspondence and other information and be permitted access to the premises and books and records of Sellers as may be necessary and appropriate in order for Purchaser to perform such investigation of the Assets and Sellers as Purchaser may consider desirable.

7. Fees and Expenses. Each party will bear its own fees and expenses, including counsel fees and fees of brokers or finders contacted by each party.

8. Announcements. The parties will cooperate concerning the timing and content of all press releases and public statements concerning this transaction.

9. Termination. The parties intend to have a closing of this transaction on or before July 1, 1994 ("Closing"). If the definitive Purchase Documents are not executed by each of the parties and delivered to the other party by June 29, 1994, then the contemplated transactions in this Letter of Intent will be terminated.

If this Letter of Intent accurately reflects our understanding, then please execute this letter where indicated and return it to us no later than June 17, 1994. If we do not receive an executed original of this letter by that date, then this Letter of Intent shall

Ampak, Inc.  
June 17, 1994  
Page 5

be deemed without any force or effect.

Very truly yours,

HEAT SEALING EQUIP.  
MFG. CO., INC.

By: Ronald J. Skalsky  
Ronald J. Skalsky, President

The foregoing terms are hereby approved and accepted by each of the Sellers and Guarantors as of this 27<sup>th</sup> of June, 1994.

RC INDUSTRIES, INC.  
aka C & S INDUSTRIES, INC.

By: [Signature]  
Name: Richard J. Cavicchia  
Title: President

[Signature]  
Richard J. Cavicchia

AMPAK, INC.

By: [Signature]  
Name: Richard J. Cavicchia  
Title: President

[Signature]  
Karen A. Cavicchia

EXHIBIT "A"

All of the tangible and intangible assets of Ampak, Inc. and/or Industries, Inc. (subject to the exclusions set forth below), including without limitation all:

The "Ampak" trade name  
Inventory  
Accounts receivable (other than those accounts receivable received by Wachovia prior to closing and applied to the debts of RC Industries, Inc. and/or Ampak, Inc. to Wachovia;  
Machinery and equipment  
Furniture and fixtures  
Leasehold improvements (to the extent same can be removed from Ampak's premises in accordance with the terms of its lease agreement with MMAT)  
Drawings  
Applicable Engineering software and memory (i.e., CAD/CAM system), to the extent same may be legally transferred;  
Customer lists  
Patents  
Trademarks and tradenames  
Books and records

And excluding, however, the following:

All cash or bank accounts, which shall be the property of Wachovia and shall be applied to Wachovia's debt;  
Any tax refunds, which shall be the property of Wachovia and shall be applied to Wachovia's debt;  
Any obligations owed by Ampak, Inc. and/or RC Industries, Inc. to the other;  
Any claims or causes of action against third parties by Ampak, Inc. and/or RC Industries, Inc. and any proceeds therefrom;  
Any monies, receivables or payments received by Wachovia prior to closing and applied to the debts of Ampak, Inc. and/or RC Industries, Inc.

Hereinafter called the "Property").

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK DIVISION

Mark: SHIPMATE Reg. Number: 934,287  
Int. Class: 7 Reg. Date: May 23, 1972  
Docket No.: 5-658

Watts, Hoffmann, Fisher & Heinke Co., L.P.A.  
1100 Superior Avenue, Suite 1750  
Cleveland, Ohio 44114

**AFFIDAVIT**

I, Ronald J. Skalsky, President of Heat Sealing Equip. Mfg. Co., Inc. ("the Company") do solemnly and sincerely declare and state:

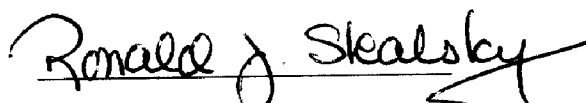
1. I am President of the Company. I have access to the financial and business records of the Company and am authorized to make this declaration on its behalf.
2. The following statements are made on the basis of my own personal knowledge or as a result of inquiry which I have made of other Company officers and employees.
3. I am executing this Affidavit as part of the recordation of the transfer of title of the above-identified United States Trademark registration, to be filed with the Assignment Division of the United States Patent and Trademark Office. On this same day, I am executing a similar Affidavit as part of the twenty year renewal process for this registration. I am aware that Ampak Inc. is the owner of record of the above-identified mark.

4. I am aware that the Company purchased the assets of Ampak, Inc., with a business address of 5321 Clemson Highway, Anderson, SC 29622, on the closing date of June 29, 1994. A true and accurate copy of the original index to the Purchase of Assets (the "Agreement") is attached. Also attached is a true and accurate copy of the original Letter of Intent of the sale. The Letter of Intent, executed on June 27, 1994, includes an Exhibit A which states the property to be sold includes all "intangible assets of Ampak, Inc." including all "trademarks and tradenames." Pursuant to TMEP § 1603.05(a), this Affidavit and accompanying documents are offered as sufficient proof to support transfer of title from the present owner of record, Ampak, Inc., to the entity which filed the accompanying recordation request.

5. The Company has continued to use the mark in interstate commerce since the closing date of June 29, 1994.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under § 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this application or any trademark issued thereon.

Date: 05/22/2002

  
Ronald J. Skalsky

President  
Heat Sealing Equip. Mfg. Co., Inc.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
TRADEMARK DIVISION

Mark: SHIPMATE

Reg. Number: 934,287

Int. Class: 7

Reg. Date: May 23, 1972

Docket No.: 5-658

Watts, Hoffmann, Fisher & Heinke Co., L.P.A.  
1100 Superior Avenue, Suite 1750  
Cleveland, Ohio 44114

Express Mail Label No. EB60974637US  
I hereby certify that this paper is being deposited  
with the U.S. Postal Service as Express Mail  
and processed to the Commissioner of Patents and  
Trademarks, Washington, D.C. 20231 on 5/22/02  
By: J. Lawson

**REQUEST FOR RECORDATION OF ASSIGNMENT**

Enclosed please find the following documents.

- 1) Form PTO-1595 for recordation in the Assignment Division
- 2) Affidavit by the President of the present owner of the registration
- 3) Accompanying evidentiary documents showing chain of title from the owner of record

to the present owner.

Heat Sealing Equip. Mfg. Co., Inc. purchased the above identified trademark registration from Ampak, Inc. as part of a Purchase of Assets agreement. If any clarification of these documents is required, please directly contact Applicant's undersigned representative.

Respectfully submitted,

Date: 5/22/02

W.A. Johnston  
William A. Johnston  
Reg. No. 47,687

Telephone: (216) 241-6700  
Facsimile: (216) 241-8151