

TRANS

RDATION

Atty. Docket: 2019.100



To the Honorable Commissioner of Paten

102109957

attached original documents or copy thereof.

1. Name of conveying party(ies):

5-29-02

PRICEWATERHOUSECOOPERS INC. (Interim Receiver)
145 King Street West, Toronto Ontario M5H 1V8
for
FANTOM TECHNOLOGIES, INC.
(Canada corporation)
1110 Hansler Road
Welland, Ontario L3B 5S1



- Individual(s)
General Partnership
Corporation
Other Canadian Corporation

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

2. Name and address of receiving party(ies):

Name: CHIAPHUA INDUSTRIES LIMITED

Street Address: 2-4 Dia Wang Street
Tai Po Industrial Estate

City: Tai Po, N.T. State Hong Kong ZIP

- Individual(s) citizenship
Association
General Partnership
Limited Partnership
Corporation
Other Hong Kong Corporation

3. Nature of conveyance:

- Assignment Merger
Security Agreement Change of Name
Other

Pricewaterhouse appointed as interim receiver of FANTOM
by Order of the Ontario Superior Court of Justice, dated
October 25, 2001.

Execution Date: February 7, 2002

If assignee is not domiciled in the United States, a
domestic representative designation is attached:

- Yes No

(Designation 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)
75-884,712 (Active 03 and Design)
75-884,713 (03 and Design) 75-884,714 (Active 03)
75-871,189 (Calypso & Goddess Design)
75-871,191 (Goddess Design)

B. Trademark Registration No.(s)

2,496,656 (Calypso)

Additional numbers attached? Yes No

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

Name: Fitzpatrick, Cella, Harper & Scinto
30 Rockefeller Plaza, 38th Floor
New York, New York 10112-3801

Telephone No.: (212) 218-2100
Facsimile No.: (212) 218-2200

06/03/2002 DBYRME 00000114 2496656

6. Number of applications and registrations involved:
SIX (6)

7. Total fee (37 CFR 3.41): \$165.00

- Enclosed
Authorized to be charged to deposit account

8. Deposit account number for any deficiency: 06-1205
(Attach duplicate copy of this page if paying by deposit account):

01 FC:481 40.00 OP
02 FC:482 125.00 OP

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.

Warren E. Olsen (Reg. No. 27,290)

Name of Person Signing

Signature

May 29, 2002

Date

May 29, 2002

Total number of pages including cover sheet, attachments, and documents: 12

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
SECOND REQUEST FOR EXTENSION OF TIME
TO FILE A STATEMENT OF USE

Mark: 0₃ and Design
Serial No. 75/884,713
Filed: January 3, 2000
Int'l. Class: 011

The Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, Virginia 22202-3513

FANTOM TECHNOLOGIES INC.
(Canada corporation)
1 Eva Road
Toronto, Ontario
M9C 4Z5 CANADA

The above-identified initial Applicant received a Notice of Allowance dated May 29, 2001. On December 15, 2001, the current Applicant was granted a first six-month extension of time under 35 C.F.R. §2.89 in which to file a Statement of Use, or until May 29, 2002. This is a second request for an extension of time following mailing of the Notice of Allowance. A check for \$150.00 per international class is attached.

The current Applicant, by assignment, is CHIAPHUA INDUSTRIES, LIMITED (Hong Kong corporation), having a principal place of business at 2-4 Dia Wang Street, Tai

Po Industrial Estates, Tai Po, NT, Hong Kong. ("CHIAPHUA"). CHIAPHUA has a continued *bona fide* intention to use the mark in commerce on or in connection with those goods identified in the Notice of Allowance in this application.

All assets relating to the business, including the business goodwill, as represented by the trademark in this application were transferred by assignment from Applicant to CHIAPHUA through a Canadian bankruptcy proceeding, on or about February 26, 2002. A copy of that Assignment is being filed for a recordal in the United States Patent and Trademark Office, for an indexing against this application.

CHIAPHUA requires an additional six-month extension to make use of the mark since the recent transfer of business assets from Applicant is part of an ongoing process to introduce goods bearing this trademark into commerce.

All written communication should be directed as follows:

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza, 38th Floor
New York, NY 10112-3801

All telephone inquiries should be directed as follows:

Atty. Docket No. 2019.T51
Warren E. Olsen (Reg. No. 27,290)
202/530-1010

APPOINTMENT OF DOMESTIC REPRESENTATIVE

FITZPATRICK, CELLA, HARPER & SCINTO, of 30 Rockefeller Plaza, 38th Floor, New

York, New York, 10112-3801, U.S.A., are hereby designated Applicant's representatives upon whom notices or process in proceedings affecting the mark may be served.

DECLARATION

The undersigned, SHEILAH CHATJAVAL, declares that she is a signing Officer of CHIAPHUA and is authorized to make this declaration on behalf of the corporation; that she confirms that the initial Applicant has assigned all business assets as well as all trademark goodwill relating to the trademark of this application to CHIAPHUA; that she believes CHIAPHUA to be the owner of and entitled to use the trademark sought to be registered; that to the best of her knowledge and belief no other person, firm, corporation or association has the right to use said mark in commerce either in the identical form or in such near resemblance thereto as may be likely, when applied to the goods of such other person, to cause confusion, or to cause mistake, or to deceive; that all statements made upon personal knowledge are true and all statements made upon information and belief are believed to be true; 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 Section 1001 of Title 18 of the United States Code and that such willful statements may jeopardize the validity of the application or registration resulting therefrom.

CHIAPHUA INDUSTRIES LIMITED

Date: May 29, 2002

By: 
SHEILAH CHATJAVAL
Its: Signing Officer

Attachment: \$ 150.00 Check
Copy of Assignment

C:\2019\T51-2EOT

AGREEMENT OF PURCHASE AND SALE

Made as of the 7th day of February, 2002

Between

PRICEWATERHOUSECOOPERS INC.,
in its capacity as Interim Receiver of
Fantom Technologies Inc.,
Fantom Technologies Direct, Inc.,
Fantom Technologies Intellectual Property, Inc.,
Fantom Technologies U.S.A., Inc.
and **Fantom Technologies U.S.A. Holdings, Inc.**
and not in its personal capacity
(the "Interim Receiver")

and

CHIAPHUA INDUSTRIES LIMITED
(the "Purchaser")

MCMILLAN BINCH

BARRISTERS & SOLICITORS

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AGREEMENT OF PURCHASE AND SALE 11.DOC

AGREEMENT OF PURCHASE AND SALE

TRADEMARK
REEL: 002517 FRAME: 0656

AGREEMENT OF PURCHASE AND SALE

This Agreement is made as of the 7th day of February, 2002, between

PRICEWATERHOUSECOOPERS INC., in its capacity as
Interim Receiver of Fantom Technologies Inc., Fantom
Technologies Direct, Inc., Fantom Technologies Intellectual
Property, Inc., Fantom Technologies U.S.A., Inc. and Fantom
Technologies U.S.A. Holdings, Inc. and not in its personal capacity
(the "**Interim Receiver**")

and

CHIAPHUA INDUSTRIES LIMITED
(the "**Purchaser**")

RECITALS

A. Pursuant to an order of the Honourable Mr. Justice Farley of the Ontario Superior Court of Justice (Commercial List) dated October 25, 2001, PricewaterhouseCoopers Inc. was, *inter alia*, appointed interim receiver of the Debtor pursuant to Section 47 of the *Bankruptcy and Insolvency Act* (Canada).

B. The Interim Receiver desires to sell and the Purchaser desires to purchase the Assets, as more particularly set out herein, subject to the terms and conditions hereof.

FOR VALUE RECEIVED, the parties agree as follows:

SECTION 1 – INTERPRETATION

1.1 Definitions

In this Agreement:

- (1) **Agreement** means this Agreement of Purchase and Sale;
- (2) **Appointment Order** means the order of the Court appointing PricewaterhouseCoopers Inc. as Interim Receiver of the Debtor on October 25, 2001, as amended;
- (3) **Approval and Vesting Orders** has the meaning set out in Section 4.3(a);

AGREEMENT OF PURCHASE AND SALE

TRADEMARK
REEL: 002517 FRAME: 0657

- (4) **Assets** means the right, title and interest of the Debtor in and to the: (i) Floor Products; (ii) Water Products; (iii) Equipment; (iv) Intellectual Property; (v) Trademarks; and (vi) Contracts;
- (5) **Assumed Obligations** means all obligations and liabilities of the Debtor under the Contracts that are assumed by the Purchaser as of the Closing Date as set out in the Settlement Agreement;
- (6) **Business Day** means a day on which banks are open for business in the City of Toronto but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario;
- (7) **Closing** means the successful completion of the Transaction;
- (8) **Closing Date** means the Business Day following the later of the date on which the Approval and Vesting Orders or the U.S. Approval Order is granted, provided that such date is not later than February 28, 2002, or such later or earlier date as agreed by the parties;
- (9) **Confidential Information** has the meaning set out in the Confidentiality Agreement dated November 9, 2002 between the Purchaser and the Interim Receiver and attached as Schedule 1.1(9);
- (10) **Contracts** means the agreements and licenses, as amended and supplemented, between the Debtor and Omachron or GBD, as listed in Schedule 1.1(10);
- (11) **Court** means the Ontario Superior Court of Justice (Commercial List);
- (12) **Debtor** means, collectively, Fantom Technologies Inc., Fantom Technologies Direct, Inc., Fantom Technologies Intellectual Property, Inc., Fantom Technologies U.S.A., Inc. and Fantom Technologies U.S.A. Holdings, Inc.;
- (13) **Debtor's Premises** means the premises owned by the Debtor and municipally known as 1110 Hansler Road, Welland, Ontario, L3B 5S1;
- (14) **Deposit** has the meaning specified in Section 2.6(a);
- (15) **ETA** means the *Excise Tax Act* (Canada);
- (16) **Equipment** means the equipment, assembly lines, tools, moulds and dies owned by the Debtor and used by the Debtor prior to the Closing Date to manufacture or develop the Floor Products or the Water Products and described in Schedule 1.1(16);
- (17) **Floor Products** means the floor-care product lines manufactured by the Debtor and marketed under the trademarks "FANTOM FURY", "FANTOM LIGHTNING", "FANTOM CYCLONE XT", "FANTOM CROSSWIND" (models 200 and 600), "FANTOM WILDCAT" and "FANTOM WILDCAT";
- (18) **GBD** means G.B.D. Corp. and all affiliates thereof;

- (19) **GST** means all goods and service taxes payable under the ETA;
- (20) **Intellectual Property** means all applications and registrations for the patents, industrial designs, engineering drawings, CAD drawings, engineering notices, engineering change requests, quality control data files, production work instructions and tooling designs owned by the Debtor and used by the Debtor prior to the Closing Date to manufacture or develop the Floor Products and Water Products as listed in Schedule 1.1(20) and all related and non-privileged correspondence, files and records which are under the control of the Interim Receiver and in the possession of Bereskin & Parr;
- (21) **Intellectual Property Assignment Agreement** means the assignment agreement to be entered into between the Interim Receiver and the Purchaser (or an entity designated by the Purchaser) with respect to the assignment of the industrial designs, patents and patent applications described in Schedule 1.1(20), in the form attached as Schedule 1.1(21);
- (22) **Omachron** means Omachron Technologies, Inc., Omachron Research Inc. and all affiliates thereof;
- (23) **Purchase Price** means \$.
- (24) **Settlement Agreement** means the agreement between the Interim Receiver, the Purchaser, GBD and Omachron dated as of the date hereof;
- (25) **Time of Closing** means 2:00 p.m. (EST) on the Closing Date or such other time on the Closing Date as the parties may mutually agree;
- (26) **Trademark Assignment Agreement** means the assignment agreement between the Interim Receiver and the Purchaser (or an entity designated by the Purchaser) with respect to the assignment of the Trademarks and in the form attached as Schedule 1.1(26);
- (27) **Trademarks** means the trade-marks owned by the Debtor described in Schedule 1.1(27);
- (28) **Transaction** means the transaction of purchase and sale and assignment and assumption contemplated by this Agreement;
- (29) **U.S. Approval and Vesting Order** has the meaning set out in Section 4.3(b); and
- (30) **Water Products** means the water filtration system currently owned by the Debtor and marketed under the trademark "CALYPSO".

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. Unless otherwise indicated, all references to a "section" followed by a number and/or a letter refer to the specified section of this Agreement. The terms "this Agreement",

SECTION 2 –SALE AND PURCHASE AND ASSIGNMENT

2.1 Sale and Purchase of Assets

Subject to the terms and conditions hereof, the Interim Receiver, exercising the powers of sale granted pursuant to the Appointment Order, shall sell to the Purchaser and the Purchaser shall purchase the Assets on the Closing Date. The Purchaser acknowledges that it is not purchasing any other property or assets of the Debtor other than the Assets.

AGREEMENT OF PURCHASE AND SALE

TRADEMARK
REEL: 002517 FRAME: 0660

The parties have executed this Agreement.

PRICEWATERHOUSECOOPERS INC.,
in its capacity as Interim Receiver of
Fantom Technologies Inc., Fantom Technologies
Direct, Inc., Fantom Technologies Intellectual
Property, Inc., Fantom Technologies U.S.A., Inc.
and Fantom Technologies U.S.A. Holdings, Inc.
and not in its personal capacity

By: 
Name: Catherine Hristow
Title: Vice-President

CHIAPHUA INDUSTRIES LIMITED

By: _____
Name: Malcolm Dumenil
Title: Chief Operating Officer

The parties have executed this Agreement.

PRICEWATERHOUSECOOPERS INC.,
in its capacity as Interim Receiver of
Fantom Technologies Inc., Fantom Technologies
Direct, Inc., Fantom Technologies Intellectual
Property, Inc., Fantom Technologies U.S.A., Inc.
and Fantom Technologies U.S.A. Holdings, Inc.
and not in its personal capacity

By: _____

Name: Greg Watson

Title: Senior Vice-President

CHIAPHUA INDUSTRIES LIMITED

By: *Malcolm Dumenil*

Name: Malcolm Dumenil

Title: Chief Operating Officer

U.S. Trademarks

Description	Application Number	Registration Number
O3	75-884713	
Active O3	75-884712	
Active O3	75-884714	
Calypso		2496656
Calypso	75-871189	
Design Mark	75-871191	

1.1(27) - 2

AGREEMENT OF PURCHASE AND SALE