

08-08-2002



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

REC 1

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

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

1. Name of conveying party(ies):

Tim Minniar

Re 7-23-02

- Individual(s) [checked] Association [ ] General Partnership [ ] Limited Partnership [ ] Corporation-State [ ] Other [ ]

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

2. Name and address of receiving party(ies)

Name: Pro Performance Sports, LLC

Internal Address: \_\_\_\_\_

Street Address: 16450 Via Esprillo

City: San Diego State: CA Zip: 92127

- Individual(s) citizenship [ ] Association [ ] General Partnership [ ] Limited Partnership [ ] Corporation-State [ ] Other [checked] limited liability company

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

3. Nature of conveyance:

- Assignment [checked] Merger [ ] Security Agreement [ ] Change of Name [ ] Other [ ]

Execution Date: April 24, 2002

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2539494

Additional number(s) attached [ ] Yes [checked] No

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

Name: Ross J. Schwartz, Esq.

Internal Address: \_\_\_\_\_

Street Address: 101 West Broadway

Suite 810

City: San Diego State: CA Zip: 92101

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41): \$40.00

- Enclosed [checked] Authorized to be charged to deposit account [ ]

8. Deposit account number:

(Attach duplicate copy of this page if paying by deposit account)

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.

ROSS J. SCHWARTZ

Name of Person Signing

[Signature]

Signature

4/30/02

Date

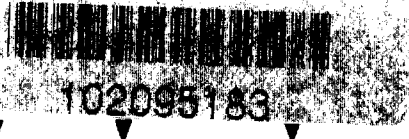
Total number of pages including cover sheet, attachments, and document: 4

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

05-20-2002

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

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



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Tim Minniear

5.13.02

- Individual(s)
- General Partnership
- Corporation-State
- Other \_\_\_\_\_
- Association
- Limited Partnership

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

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- Association \_\_\_\_\_
- General Partnership \_\_\_\_\_
- Limited Partnership \_\_\_\_\_
- Corporation-State \_\_\_\_\_
- Other limited liability company

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ROSS J. SCHWARTZ

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Signature

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Commissioner of Patent & Trademarks, Box Assignments  
Washington, D.C. 20231

05/20/2002 6TON11 00000001 2539494

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40.00 OP

TRADEMARK  
REEL: 002557 FRAME: 0680

OFFICE OF PATENT RECORDS  
FINANCE SECTION  
MAY 13 AM 7:34

# TRADEMARK ASSIGNMENT

**THIS TRADEMARK AGREEMENT** ("Agreement") is by and between **TIM MINNIEAR**, an individual, residing at 1031 Prospect Place, Vista, California 92083 ("Assignor"), and **PRO PERFORMANCE SPORTS, LLC**, a California limited liability company with its principal place of business at 16450 Via Esprillo, San Diego, CA 92127 ("Assignee").

**WHEREAS**, Assignor, is the owner of that certain trademark identified as follows: HIT-A-WAY (typed drawing), USPTO serial number 76053354 and registration number 2539494, registration dated February 19, 2002 (the "Trademark"); and

**WHEREAS**, Assignee, wishes to acquire the entire rights, title, and interest in the Trademark.

**NOW, THEREFORE**, the parties agree as follows:

1. ASSIGNMENT. For good and valuable consideration, the receipt of which is hereby acknowledged, Assignor does hereby irrevocably sell, assign and transfer to Assignee all rights, title, and interest (including, but not limited to, the right of action to recover damages for past infringement of the Trademark, all goodwill and all other rights), in and to the Trademark, the same to be held and enjoyed by said Assignee for his own use and behalf, and for his legal representatives and assigns, to the full end of the term for which said Trademark is granted, as fully and entirely as the same would have been held by Assignor had this assignment and sale not been made.

2. REPRESENTATIONS AND WARRANTIES. Assignor represents and warrants to Assignee:

- a. Assignor has the right, power and authority to enter into this Agreement;
- b. Assignor is the exclusive owner of all right, title and interest, including all intellectual property rights, in the Trademark;
- c. The Trademark is free of any liens, security interests, encumbrances or licenses;
- d. The Trademark does not infringe the rights of any person or entity;
- e. There are no claims, pending or threatened, with respect to Assignor's rights in the Trademark;
- f. This Agreement is valid, binding and enforceable in accordance with its terms; and
- g. Assignor is not subject to any agreement, judgment or order inconsistent with the terms of this Agreement.

3. ATTORNEYS' FEES. Should either party hereto, or any heir, personal representative, successor or assign of either party hereto, resort to litigation to enforce this Agreement, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable attorneys' fees and costs in such litigation from the party against whom enforcement was sought.

4. ENTIRE AGREEMENT. This Agreement and that certain written Product Marketing and License Agreement dated June 2001, as amended December 21, 2001, among Assignee's predecessor-in-interest and Assignor contain the entire understanding and agreement between the parties hereto with respect to its subject matter and supersede any prior or contemporaneous written or oral agreements, representations or warranties between them respecting the subject matter hereof.

5. AMENDMENT. This Agreement may be amended only by a writing signed by both parties.

6. SEVERABILITY. If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

7. AGREEMENT TO PERFORM NECESSARY ACTS. Assignee agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

8. GOVERNING LAW. This Agreement shall be construed in accordance with, and all actions arising hereunder shall be governed by, the laws of the State of California.

DATED: 4-24-02, 2002

Assignor:

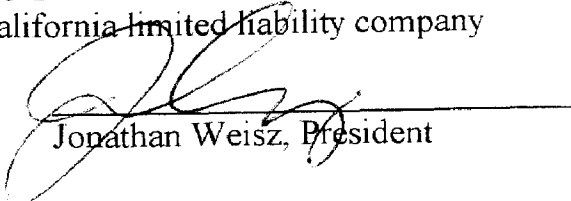
  
TIM MINNIEAR

DATED: 4/24/02, 2002

Assignee:

**PRO PERFORMANCE SPORTS, LLC,**  
a California limited liability company

By:

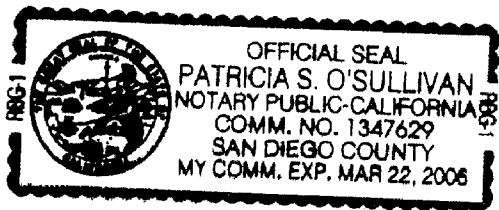
  
Jonathan Weisz, President

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On April 24 2002, before me, Patricia S. O'Sullivan, a Notary Public in and for said County and State, personally appeared TIM MINNIEAR, personally known to me (or proved to me on the basis of satisfactory evidence) to be the ~~person(s) whose name(s) is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same ~~in his/her/their authorized capacity(ies)~~, and that ~~by his/her/their signature(s)~~ on the instrument ~~the person(s)~~, or the entity upon behalf of which ~~the person(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

Patricia S. O'Sullivan  
Notary Public

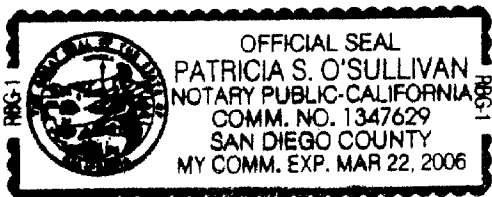


STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF SAN DIEGO )

On April 24, 2002, before me, Patricia S. O'Sullivan, a Notary Public in and for said County and State, personally appeared JONATHAN WEISZ, personally known to me (or proved to me on the basis of satisfactory evidence) to be the ~~person(s) whose name(s) is/are~~ subscribed to the within instrument and acknowledged to me that ~~he/she/they~~ executed the same ~~in his/her/their authorized capacity(ies)~~, and that ~~by his/her/their signature(s)~~ on the instrument ~~the person(s)~~, or the entity upon behalf of which ~~the person(s)~~ acted, executed the instrument.

WITNESS my hand and official seal.

Patricia S. O'Sullivan  
Notary Public



# PATENT ASSIGNMENT

**THIS PATENT ASSIGNMENT** ("Agreement") is by and between **TIM MINNIEAR**, an individual, residing at 1031 Prospect Place, Vista, California 92083 ("Assignor"), and **PRO PERFORMANCE SPORTS, LLC**, a California limited liability company with its principal place of business at 16450 Via Esprillo, San Diego, CA 92127 ("Assignee").

**WHEREAS**, the Assignor, has invented a certain new and useful invention (the "Invention") and Assignor holds a patent related thereto (patent number 6,296,582, dated October 2, 2001), both of which are described on Exhibit "A" attached hereto and incorporated herein by this reference (the "Patent"); and

**WHEREAS**, Assignee, wishes to acquire the entire rights, title, and interest in the Invention and the Patent;

**NOW, THEREFORE**, the parties agree as follows:

1. ASSIGNMENT. For good and valuable consideration, the receipt of which is hereby acknowledged, Assignor does hereby irrevocably sell, assign and transfer to Assignee all rights, title, and interest in U.S. Patent Number 6,296,582 (including, but not limited to, the patent claims, all rights to prepare derivative works, the right of action to recover damages for past infringement of the Patent, all improvements thereon or variations thereof, any division, continuation or continuation-in-part thereof, any Letters Patent of the United States which may be issued for said Invention or improvements or any of the reissues, renewals and extensions thereof, all applications for Letters of Patent filed in foreign countries for said Invention or improvements, including all priority rights under the Paris Convention, and in all Letters Patent which may be granted in foreign countries therefor, as well as in any extensions and renewals thereof, and all goodwill and all other rights), in and to the Patent and the Invention aforesaid, the same to be held and enjoyed by said Assignee for its own use and behalf, and for its legal representatives and assigns, to the full end of the term for which said Patent is granted, as fully and entirely as the same would have been held by Assignor had this assignment and sale not been made.

2. REPRESENTATIONS AND WARRANTIES. Assignor represents and warrants to Assignee:

- a. Assignor has the right, power and authority to enter into this Agreement;
- b. Assignor is the exclusive owner of all right, title and interest, including all intellectual property rights, in the Invention and the Patent;
- c. The Invention and Patent are free of any liens, security interests, encumbrances or licenses;
- d. The Invention and Patent have not and do not infringe the rights of any person or entity;
- e. There are no claims, pending or threatened, with respect to Assignor's rights in the Invention and Patent;

f. This Agreement is valid, binding and enforceable in accordance with its terms;  
and

g. Assignor is not subject to any agreement, judgment or order inconsistent with the terms of this Agreement.

3. ATTORNEYS' FEES. Should either party hereto, or any heir, personal representative, successor or assign of either party hereto, resort to litigation to enforce this Agreement, the party prevailing in such litigation shall be entitled, in addition to such other relief as may be granted, to recover its or their reasonable attorneys' fees and costs in such litigation from the party against whom enforcement was sought.

4. ENTIRE AGREEMENT. This Agreement and that certain written Product Marketing and License Agreement dated June 2001, as amended December 21, 2001, among Assignee's predecessor-in-interest and Assignor, contain the entire understanding and agreement between the parties hereto with respect to its subject matter and supersede any prior or contemporaneous written or oral agreements, representations or warranties between them respecting the subject matter hereof.

5. AMENDMENT. This Agreement may be amended only by a writing signed by both parties.

6. SEVERABILITY. If any term, provision, covenant or condition of this Agreement, or the application thereof to any person, place or circumstance, shall be held by a court of competent jurisdiction to be invalid, unenforceable or void, the remainder of this Agreement and such term, provision, covenant or condition as applied to other persons, places and circumstances shall remain in full force and effect.

7. AGREEMENT TO PERFORM NECESSARY ACTS. Assignee agrees to perform any further acts and execute and deliver any documents that may be reasonably necessary to carry out the provisions of this Agreement.

8. GOVERNING LAW. This Agreement shall be construed in accordance with, and all actions arising hereunder shall be governed by, the laws of the State of California.

DATED: 4-24, 2002

Assignor:

  
**TIM MINNIEAR**

DATED: 4/24, 2002

Assignee:

**PRO PERFORMANCE SPORTS, LLC,**  
a California limited liability company

By:

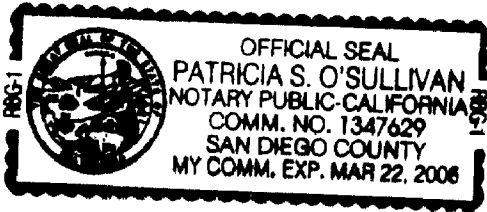
  
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WITNESS my hand and official seal.

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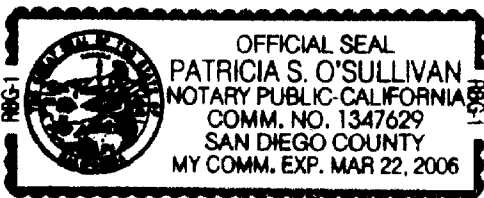


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WITNESS my hand and official seal.

Patricia S. O'Sullivan  
Notary Public





The Invention: Baseball Striking Practice Device

The Patent:

Patent #: 6,296,582

Country of Patent: United States of America

Date of Patent: October 2, 2001

Exhibit "A" to  
Patent Assignment

rjs\pps\docs\patent.assign.minnear.wpd

**RECORDED: 05/13/2002**

**TRADEMARK  
REEL: 002557 FRAME: 0687**