TRADEMARK P

08-08-2002

102183143

U.S. Patent and Trademark Office
Office of Public Records
Attn: Customer Services Counter
Crystal Gateway 4, 3rd Floor
1213 Jefferson Davis Highway, 3rd Floor
Arlington, Virginia 22202-3513

Please record the attached original documents or copy thereof.

8-8-02

1. Name of conveying party(ies):
Burke Industries, Inc.

- ☐ Individual(s)
- ☐ Association
- ☐ General Partnership
- ☐ Limited Partnership
- ☒ Corporation-State California
- ☐ Other

Additional name(s) conveying party(ies) attached: ☐ Yes ☒ No

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

Name: Wells Fargo Business Credit, Inc.
Street Address: 245 South Los Robles Avenue
Suite 600
City Pasadena State CA Zip 91101

- ☐ Individual(s)
- ☐ Association
- ☐ General Partnership
- ☒ Limited Partnership Minnesota
- ☐ Corporation-State
- ☐ Other

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) and address(es) attached: ☐ Yes ☒ No

3. Nature of conveyance:

- ☐ Assignment
- ☐ Merger
- ☒ Security Agreement
- ☐ Change of Name
- ☐ Other

Execution Date: July 24, 2002

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

A. Trademark Application No(s):
Please see attached Exhibit B.

B. Trademark Registration No(s):
Please see attached Exhibit B.

08/08/2002 TDIAZ1 00000072 4735003
01 FC:481 40.00 OP
02 FC:482 375.00 OP

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

Name: Totam Terry Luu
Street Address: Mayer, Brown & Platt
350 South Grand Avenue, 25th Floor
City: Los Angeles
State: CA Zip: 90071

6. Total number of applications and registrations involved: 16

7. Total fee (37 CFR 3.41) $415.00

- ☒ Enclosed
- ☐ Authorized to be charged to deposit account

8. Deposit account number:

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

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.

Totam Terry Luu	Totam Terry Luu	August 7, 2002
Name of Person Signing	Signature	Date

LA01/GARCD/187462.1

EXHIBIT B

UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS
AND COLLECTIVE MEMBERSHIP MARKS

Name	Serial/Registration No.	Date of Filing	Date of Registration
1. VAC-Q-ROOF	1,737,636	September 17, 1990	December 1, 1992
2. ROULEAU	1,518,089	August 24, 1987	December 27, 1988
3. BURKEBASE	1,339,210	September 10, 1984	June 4, 1985
4. BURKE INDUSTRIES	1,063,868	September 10, 1975, renewed January 24, 1997	April 19, 1977
5. ARGONAUT	867,442	May 6, 1968, renewed April 1, 1989	April 1, 1969
6. SURETITE	72,108,258 or 717890	November 14, 1960, renewed July 4, 1981	July 4, 1961
7. ROULEAU	85,738	Not Available	November 12, 1987
8. BURKEBASE	74,546	August 2, 1994 - renewed	September 24, 1984
9. MIRROR-FINISH	76/057,297	Not Available	May 25, 200_
10. UNI-COLOR	1,829,424	April 19, 1993	April 5, 1994
11. MERCER	1,851,494	April 1, 1993	August 30, 1994
12. RUBBERMYTE	1,651,500	August 24, 1990	July 23, 1991
13. DOCKSIDERS	1,372,591	May 31, 1985	November 26, 1985
14. MAXXI-TREAD	1,355,586	May 26, 1983	August 20, 1985
15. MERCER FRICTION GRP	861,475	November 8, 1967	December 3, 1968
16. BURKEMERGE	2,296,465	April 14, 1997	November 30, 1999

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PATENT AND TRADEMARK SECURITY AGREEMENT

This Agreement, dated as of July 24, 2002 is made by and between Burke Industries, Inc., a California corporation having a business location at the address set forth below next to its signature (the "Debtor"), and Wells Fargo Business Credit, Inc., a Minnesota corporation having a business location at the address set forth below next to its signature (the "Secured Party").

RECITALS

The Debtor and the Secured Party are parties to a Credit and Security Agreement of even date herewith (as the same may hereafter be amended, supplemented or restated from time to time, the "Credit Agreement") setting forth the terms on which the Secured Party may now or hereafter extend credit to or for the account of the Debtor.

As a condition to extending credit to or for the account of the Debtor, the Secured Party has required the execution and delivery of this Agreement by the Debtor.

AGREEMENT

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them therein. In addition, the following terms have the meanings set forth below:

"Obligations" means each and every debt, liability and obligation of every type and description arising under or in connection with any Loan Document (as defined in the Credit Agreement) which the Debtor may now or at any time hereafter owe to the Secured Party, whether such debt, liability or obligation now exists or is hereafter created or incurred and whether it is or may be direct or indirect, due or to become due, absolute or contingent, primary or secondary, liquidated or unliquidated, independent, joint, several or joint and several, and including specifically, but not limited to, the Obligations (as defined in the Credit Agreement).

"Patents" means all of the Debtor's right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, and licenses thereunder, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on Exhibit A.

"Security Interest" has the meaning given in Section 2.

"Trademarks" means all of the Debtor's right, title and interest in and to: (i) trademarks, service marks, collective membership marks, registrations and applications for registration for each, and the respective goodwill associated with each, (ii) licenses, fees or royalties with respect to each, (iii) the right to sue for past, present

and future infringement, dilution and damages therefor, (iv) and licenses thereunder, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on Exhibit B.

2. Security Interest. The Debtor hereby irrevocably pledges and assigns to, and grants the Secured Party a security interest(the "Security Interest"), with power of sale to the extent permitted by law, in the Patents and in the Trademarks to secure payment of the Obligations. As set forth in the Credit Agreement, the Security Interest is coupled with a security interest in substantially all of the personal property of the Debtor.

3. Representations, Warranties and Agreements. The Debtor represents, warrants and agrees as follows:

(a) ***Existence; Authority***. The Debtor is a corporation duly organized, validly existing and in good standing under the laws of its state of incorporation, and this Agreement has been duly and validly authorized by all necessary corporate action on the part of the Debtor.

(b) ***Patents***. Exhibit A accurately lists all Patents owned or controlled by the Debtor as of the date hereof, or to which the Debtor has a right as of the date hereof to have assigned to it, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, the Debtor owns, controls or has a right to have assigned to it any Patents not listed on Exhibit A, or if Exhibit A ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then the Debtor shall within 60 days provide written notice to the Secured Party with a replacement Exhibit A, which upon acceptance by the Secured Party shall become part of this Agreement.

(c) ***Trademarks***. Exhibit B accurately lists all Trademarks owned or controlled by the Debtor as of the date hereof and accurately reflects the existence and status of Trademarks and all applications and registrations pertaining thereto as of the date hereof; provided, however, that Exhibit B need not list common law marks (i.e., Trademarks for which there are no applications or registrations) which are not material to the Debtor's or any Affiliate's business(es). If after the date hereof, the Debtor owns or controls any Trademarks not listed on Exhibit B (other than common law marks which are not material to the Debtor's or any Affiliate's business(es)), or if Exhibit B ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then the Debtor shall within 60 days provide written notice to the Secured Party with a replacement Exhibit B, which upon acceptance by the Secured Party shall become part of this Agreement.

(d) ***Affiliates***. As of the date hereof, no Affiliate owns, controls, or has a right to have assigned to it any items that would, if such item were owned by the Debtor, constitute Patents or Trademarks. If after the date hereof any Affiliate owns, controls, or has a right to have assigned to it any such items, then the Debtor shall promptly either: (i) cause such Affiliate to assign all of its rights in such item(s) to the Debtor; or (ii) notify the Secured Party of such item(s) and cause such Affiliate to execute and

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deliver to the Secured Party a patent and trademark security agreement substantially in the form of this Agreement.

(e) ***Title***. The Debtor has absolute title to each Patent and each Trademark listed on Exhibits A and B, free and clear of all Liens except Permitted Liens. The Debtor (i) will have, at the time the Debtor acquires any rights in Patents or Trademarks hereafter arising, absolute title to each such Patent or Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents and Trademarks free and clear of all Liens except Permitted Liens.

(f) ***No Sale***. Except as permitted in the Credit Agreement, the Debtor will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without the Secured Party's prior written consent which consent shall not be unreasonably withheld.

(g) ***Defense***. The Debtor will at its own expense and using commercially reasonable efforts, protect and defend the Patents and Trademarks against all claims or demands of all Persons other than those holding Permitted Liens.

(h) ***Maintenance***. The Debtor will at its own expense maintain the Patents and the Trademarks to the extent reasonably advisable in its business including, but not limited to, filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. The Debtor covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark, nor fail to file any required affidavit or renewal in support thereof, without first providing the Secured Party: (i) sufficient written notice, of at least 30 days, to allow the Secured Party to timely pay any such maintenance fees or annuities which may become due on any Patents or Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(i) ***Secured Party's Right to Take Action***. If the Debtor fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of thirty (30) calendar days after the Secured Party gives the Debtor written notice thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or if the Debtor notifies the Secured Party that it intends to abandon a Patent or Trademark, the Secured Party may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of the Debtor (or, at the Secured Party's option, in the Secured Party's own name) and may (but need not) take any and all other actions which the Secured Party may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

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(j) ***Costs and Expenses***. Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, the Debtor shall pay the Secured Party on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements)incurred by the Secured Party in connection with or as a result of the Secured Party's taking action under subsection (i) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by the Secured Party at the Default Rate.

(k) ***Power of Attorney***. To facilitate the Secured Party's taking action under subsection (i) and exercising its rights under Section 6, the Debtor hereby irrevocably appoints (which appointment is coupled with an interest) the Secured Party, or its delegate, as the attorney-in-fact of the Debtor with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of the Debtor, any and all instruments, documents, applications, financing statements, and other agreements and writings required to be obtained, executed, delivered or endorsed by the Debtor under this Section 3, or, necessary for the Secured Party, after an Event of Default, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. The Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Obligations.

4. Debtor's Use of the Patents and Trademarks. The Debtor shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured.

5. Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (a) an Event of Default, as defined in the Credit Agreement, shall occur; and continue beyond any applicable cure period or (b) the Debtor shall fail to observe or perform any covenant or agreement herein binding on and such failure shall continue for thirty (30) calendar days after the Secured Party gives the Debtor written notice of such failure; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. Upon the occurrence of an Event of Default and at any time thereafter, the Secured Party may, at its option, take any or all of the following actions:

(a) The Secured Party may exercise any or all remedies available under the Credit Agreement.

(b) The Secured Party may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

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(c) The Secured Party may enforce the Patents and Trademarks and any licenses thereunder, and if Secured Party shall commence any suit for such enforcement, the Debtor shall, at the request of Secured Party, do any and all lawful acts and execute any and all proper documents required by Secured Party in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by the Secured Party. A waiver signed by the Secured Party shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of the Secured Party's rights or remedies. All rights and remedies of the Secured Party shall be cumulative and may be exercised singularly or concurrently, at the Secured Party's option, and the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Debtor under this Agreement shall be given in the manner and with the effect provided in the Credit Agreement. The Secured Party shall not be obligated to preserve any rights the Debtor may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of the Debtor and the Secured Party and their respective participants, successors and assigns and shall take effect when signed by the Debtor and delivered to the Secured Party, and the Debtor waives notice of the Secured Party's acceptance hereof. The Secured Party may execute this Agreement if appropriate for the purpose of filing, but the failure of the Secured Party to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement Authorized by the Debtor shall have the same force and effect as the original for all purposes of a financing statement. This Agreement shall be governed by the internal law of the state of California without regard to conflicts of law provisions. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations as well as the termination of the Credit Agreement.

THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED ON OR PERTAINING TO THIS AGREEMENT.

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IN WITNESS WHEREOF, the parties have executed this Agreement as of the date written above.

BURKE INDUSTRIES, INC.

By _____
Name: THEODORE M. CLARK
Title: PRESIDENT & CEO

WELLS FARGO BUSINESS CREDIT, INC.

By _____
Name: Tony S. Lee
Title: VP

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EXHIBIT A

UNITED STATES ISSUED PATENTS AND PATENT APPLICATIONS

Title	Serial No.	Date of Filing	Date of Registration
PROTECTIVE TOE CAP FOR FOOTWEAR	4,735,003	November 12, 1986	April 5, 1988
ROOF MEMBRANE HOLDOWN SYSTEM	4,608,792	October 12, 1984	September 2, 1986
TENSIONED RESERVOIR COVER, RAINWATER RUN-OFF ENHANCEMENT SYSTEM	4,603,790	March 11, 1985	August 5, 1986
PASSIVE PATHWAY MARKING SYSTEM	5,724,909	February 19, 1997	March 10, 1998

FOREIGN ISSUED PATENTS

Title	Country	Patent Number	Issue Date
NONE			

28537524 02974160

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

STATE OF CALIFORNIA)
) ss.
COUNTY OF San Francisco)

On 7/24/2002 (Date), before me, Heather Jean Gooby Notary Public (Name and Title of Officer (e.g. "Jane Doe, Notary Public")),

personally appeared Theodore Mackenzie Clark & Tony Seung Lee, (Name of Signer(s))

☐ 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.

HEATHER JEAN GOOBY
Commission # 1361673
Notary Public - California
San Francisco County
My Comm. Expires Jun 21, 2006

WITNESS my hand and official seal.

Heather Jean Gooby
Signature of Notary Public

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY(IES) CLAIMED BY SIGNER(S)

☐ Individual
☐ Corporate Officer

_____
Title(s)

☐ Partner(s) ☐ Limited ☐ General
☐ Attorney-In-Fact
☐ Trustee(s)
☐ Guardian/Conservator
☐ Other: _____

Signer is Representing:
Name of Person(s) or Entity(ies)

_____

_____

DESCRIPTION OF ATTACHED DOCUMENT

Patent & Trademark Security Agreement
Title or Type of Document

6
Number of Pages

7-24-2002
Date of Document

_____
Signer(s) Other Than Named Above

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