

10-10-2002

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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

102246253

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

1. Name of conveying party(ies): RIK Medical, L.L.C.

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other Bill of Sale and Assumption Agreement

Execution Date: October 1, 1997

2. Name and address of receiving party(ies)

Name: KCI-RIK Acquisition Corp. Internal Address: 8023 Vantage Drive San Antonio, TX 78230

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Delaware 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) 1,953,014 - RIK

Additional number(s) attached Yes No

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

Name: Ronald E. Shapiro Internal Address: Vorys, Sater, Seymour and Pease LLP

Street Address: 1828 L Street, NW, Eleventh Floor City: Washington State: DC Zip: 20036

6. Total number of applications and registrations involved: 1

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

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

22-0585

DO NOT USE THIS SPACE

9. Signature.

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Ronald E. Shapiro Name of Person Signing

Signature

October 4, 2002 Date

Total number of pages including cover sheet, attachments, and document: 7

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

TRADEMARK REEL: 002595 FRAME: 0782

**BILL OF SALE AND
ASSUMPTION AGREEMENT**

This BILL OF SALE AND ASSUMPTION AGREEMENT (the "Agreement") is made and entered into by and among KCI-RIK Acquisition Corp., a Delaware corporation ("Buyer"), RIK Medical, L.L.C., a Delaware limited liability company ("RIK Medical"), RIK Medical East, LLC, a Colorado limited liability company ("RIK East" and, together with RIK Medical, "Sellers"), as of the 1st day of October, 1997 to be effective as of 12:01 a.m., Central Standard Time, on October 1, 1997 (the "Effective Time").

W I T N E S S E T H:

WHEREAS, Sellers are presently engaged in the business of manufacturing, marketing, selling and distributing specialty patient surfaces (the "Business");

WHEREAS, Sellers desire to sell, assign, and convey to Buyer, and Buyer desires to purchase from Sellers, all of the assets of Sellers used in the Business pursuant to the terms and conditions of that certain Asset Purchase Agreement, dated October 1, 1997 (the "Asset Purchase Agreement"), among Sellers, Eric C. Jay ("Jay") and Buyer; and

WHEREAS, Buyer has agreed to assume certain liabilities and obligations of Sellers in accordance with Section 1.03 of the Asset Purchase Agreement;

NOW THEREFORE, in consideration of the premises and the mutual covenants and agreements contained herein, the parties hereby agree as follows:

1. Transfer of Assets. For good and valuable consideration to Sellers in hand paid, the receipt and sufficiency of which Sellers hereby acknowledge, other than the assets relating to Sellers' fluid laboratory and certain other assets of Sellers all as set forth on Exhibit A hereto (the "Excluded Assets") which Sellers will retain, Sellers hereby transfer, sell, assign, convey, and deliver to Buyer, its successors and assigns, all right, title and interest in and to all of the business, properties, assets, goodwill and rights of every nature, kind and description, tangible and intangible, relating to the Business including, without limitation, the following: (a) all of Sellers' machinery, tools, equipment, motor vehicles, rolling stock, fixtures, inventory, spare parts, supplies, raw materials, work-in-progress, finished products and other tangible personal property; (b) all of the contracts and agreements set

forth and described with more particularity on Exhibit B hereto (the "Contracts"); (c) the rights of RIK Medical pursuant to that certain Settlement Agreement and Release effective November 19, 1996 (the "Alden Agreement") by and among Alden Laboratories, Inc., Flofit Medical, LLC, Alden B. Hanson, Chris A. Hanson, Jay, RIK Medical, Pressure Relief Technologies, Inc., Quickie Designs, Inc., Jay Medical, Ltd. and Sunrise Medical Inc., save and except any rights of RIK Medical under Sections 1, 2, 3 and 4 of the Alden Agreement which shall be Excluded Assets, and the rights of RIK Medical pursuant to that certain Patent License Agreement dated as of August 31, 1994 by and between Jay Medical Ltd. and Jay Medical Inc., that certain Patent Cross License Agreement dated as of August 31, 1994 by and between Jay Medical Ltd. and Jay Medical Inc., that certain Trade Secret Agreement dated as of August 31, 1994 by and among Jay Medical Ltd., Jay Medical Inc., and Sunrise Medical Inc. and that certain First Amendment to the Trade Secret Agreement effective as of September 16, 1996 by and among Jay Medical Inc. Sunrise Medical Inc., Jay Medical Ltd. and RIK Medical (collectively, the "Sunrise Agreements"); (d) the Master Lease and Distribution Agreements and all amendments thereto and all of the personal guaranties thereunder set forth on Exhibit B-2 hereto (the "Distribution Agreements"); (e) cash and cash equivalents, whether on deposit in financial institutions or otherwise; (f) subject to the Alden Agreement and the Sunrise Agreements and the Consumer and Industrial Products License (as defined in the Asset Purchase Agreement), the patents, patent applications, patents pending, trade secrets, know-how, licenses from third parties with respect to the use of certain intellectual property and any other intellectual property owned or used by Sellers including, without limitation, such rights, registrations, applications and other items as are set forth on Exhibit C hereto; (g) all accounts receivable, notes receivable and other amounts payable to Sellers other than any accounts receivable which are Excluded Assets ("Receivables"); (h) all of Sellers' customer files, records and data; (i) all of the confidentiality and non-disclosure agreements and covenants between Sellers and any of their competitors, officers, employees and agents or third parties (collectively, the "Non-Disclosure Agreements") set forth on Exhibit 1.01 hereto; (j) all corporate names, trade names, service marks and trademarks used by Sellers including, without limitation, those set forth on Exhibit D hereto; (k) all of Sellers' customer lists and supplier lists; (l) all of the other tangible and intangible assets of Sellers; (m) subject to the Consumer and Industrial Products License, all intellectual property and other rights to products conceived or otherwise under research or development prior to the Closing Date; (n) all claims, causes of action and choses in action relating to the Business other than claims, causes of action and choses in action which are Excluded Assets; (o) all guarantees, warranties, indemnities and similar rights in favor of Sellers; (p) all of RIK Medical's ownership interest in Keener Medical, L.L.C.; and (q) the goodwill of Sellers. All of the goodwill, rights, interests and other assets set forth or incorporated by reference in this Section 1 are hereinafter collectively referred to as the "Assets."

TO HAVE AND TO HOLD the Assets unto Buyer, its successors and assigns, to and for its or their use forever.

Sellers represent and warrant that Sellers are the true and lawful owner of the Assets and that Sellers have an unrestricted and lawful right to sell and convey the same to Buyer.

And Sellers do hereby warrant, covenant and agree that Sellers:

(a) have good and marketable title to the properties and assets (other than the Distribution Agreements) hereby transferred, sold, assigned, conveyed and delivered, subject to such liens and other encumbrances as are disclosed in the Asset Purchase Agreement or any schedules or exhibits thereto and except as otherwise provided in the Asset Purchase Agreement;

(b) will warrant and defend the sale of said properties and assets (other than the Distribution Agreements) against all and every person or persons whomsoever claiming or to claim against any or all of the same, subject to the terms and provisions of the Asset Purchase Agreement; and

(c) will take all steps necessary to put Buyer, its successors and assigns in actual possession and operating control of the Assets.

Sellers hereby authorize Buyer to take any appropriate action in connection with any of the Assets, in the name of Sellers, their own and/or any other name.

2. Assumption of Liabilities.

(a) Buyer does not and shall not assume or agree to assume, and shall not acquire or take over, the liabilities and obligations of Sellers and Jay of any nature, direct, contingent or otherwise, except (i) the obligations which directly arise out of the performance by Buyer of the obligations under the Contracts, Sections 5(i) and 6.1 of the Alden Agreement, the Sunrise Agreements (to the extent set forth more particularly in the Consumer and Industrial Products License and the Development Agreement (as defined in the Asset Purchase Agreement)) in each such case only to the extent that any such obligations first arise or accrue after the Effective Time and (ii) any liabilities which arise under the Distribution Agreements, other than on account of a breach of any such Distribution Agreements which occurred prior to the Effective Time which shall remain the obligation of Sellers, but Buyer shall be obligated only to the extent set forth in Section 8.03(b) of the Asset Purchase Agreement. The liabilities assumed by Buyer pursuant to this Section 2(a) are hereinafter collectively referred to as the "Assumed Liabilities."

(b) Except as set forth in Subsection 2(a), Buyer shall not, directly or indirectly, assume any liabilities, obligations, or responsibilities of Sellers of any nature whatsoever (the "Excluded Liabilities"), whether liquidated or unliquidated, known or unknown, actual or inchoate, accrued, contingent or otherwise, and whether arising from facts existing or events occurring prior to, on or after the Effective Time.

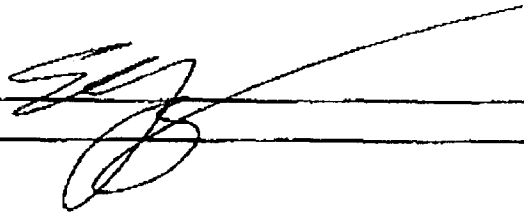
(c) Without limiting the generality of Sections 2(a) and 2(b), it is expressly agreed that Buyer shall have no liability to, for, or in respect of (i) any employees of Sellers including, but not limited to, accrued payroll, salary, severance (except as provided in Section 5.02 of the Asset Purchase Agreement) or benefit claims of any nature, or any withholding or other tax or payment in respect thereof, (ii) any obligation or liability to any present or former customer, distributor (except as provided in Section 1(a) hereof and Section 8.03(b) of the Asset Purchase Agreement) or supplier of Sellers which arose prior to the Effective Time, (iii) any obligation or liability of Sellers with respect to product liability claims on account of personal injury arising out of any injury caused by any product sold or rented by Sellers prior to the Effective Time, (iv) any obligation or liability of Sellers with respect to any warranty claims involving any of the products manufactured, marketed, sold, rented or distributed by Sellers prior to the Effective Time, (v) any liability or obligation relating to any of the matters disclosed or required to be disclosed on the Schedules to the Asset Purchase Agreement (other than any liability or obligation with respect to the Contracts, the Distribution Agreements, the Non-Disclosure Agreements, the Alden Agreement and the Sunrise Agreements which is an Assumed Liability) including, without limitation, any liability, obligation or related expense arising out of, pursuant to or in connection with any claim, action, suit, litigation or administrative, arbitration or other proceeding or governmental investigation involving Sellers or any employee of Sellers or any products manufactured, marketed, sold, rented or distributed on or prior to the Effective Time or any services provided or failed to be provided on or before the Effective Time, regardless of whether any such claim, action, suit, litigation, arbitration, proceeding or investigation is made, brought or commenced prior to or after the Effective Time, (vi) any obligation or liability of Sellers which is incurred or arises after the Effective Time except for the Assumed Liabilities, (vii) any obligation of Sellers for state (other than state sales tax which arises out of the transactions contemplated by the Asset Purchase Agreement), local, foreign or federal taxes including, without limitation, any obligation for franchise, property, sales, unitary business, capital stock or income taxes (including, without limitation, deferred taxes), (viii) any liabilities under any Environmental Law (as defined in the Asset Purchase Agreement) or otherwise, relating to any release of hazardous waste from any site in the CERCLIS Database, treatment, storage or disposal of hazardous waste, the generation or transportation of hazardous waste and any contamination from leaky underground tanks discussed in that certain Phase I Environmental Site Assessment, East Park 3 Associates, 4755 Walnut Street, Boulder, Colorado, prepared by AGRA Earth & Environmental

Inc. dated September 19, 1994, (ix) any liabilities under the Distribution Agreements which arose on account of a breach of such Distribution Agreements which occurred prior to the Effective Time, and (x) any liabilities which arose or accrued prior to the Effective Time relating to RIK Medical's "Partners In Success" program.

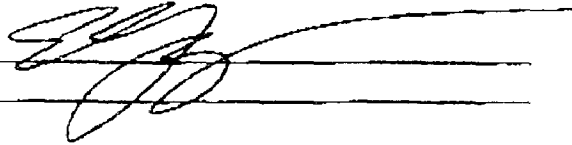
This assumption shall inure to the benefit of and be binding upon Buyer and Sellers and their respective successors and assigns.

IN WITNESS WHEREOF, Buyer and Sellers have caused this Agreement to be executed by their authorized officers as of the date first above written.

RIK MEDICAL, L.L.C.

By: 
Title: _____

RIK MEDICAL EAST, LLC

By: 
Title: _____

KCI-RIK ACQUISITION CORP.


By: 
Title: _____

EXHIBIT D

Corporate Names, Tradenames, Service Marks and Trademarks

Corporate Names:

RIK Medical, L.L.C.
RIK Medical
RIK Medical East LLC

Registered Trademarks:

U.S. TRADEMARK/SERVICE MARK REGISTRATIONS

1. United State Trademark Reg. No. 1,953,014
Registered: January 30, 1996
Entitled: RIK
(For hospital mattresses)
Inventors: RIK Medical, L.L.C.
2. United State Trademark Reg. No. 75/106,529
Registered: April 29, 1997
Entitled: DEFENDER
(For hospital mattresses)
Inventors: RIK Medical, L.L.C.
3. United State Service Mark Reg. No. 75/209,391
Registered: December 6, 1996
Entitled: Design of Sharpei Dog
(For healthcare seminars and educational classes regarding decubitus ulcers)
Inventors: RIK Medical, L.L.C.

FOREIGN TRADEMARK REGISTRATIONS

1. United Kingdom Trademark Reg. No. 2055813
Registered: February 7, 1996
Entitled: RIK
(For hospital mattresses)
Applicant: RIK Medical, L.L.C.

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RECORDED: 10/04/2002

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