

Form PTO-1594
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RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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

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

1. Name of conveying party(ies):

Res-Q-Jack Inc.

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

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other Collateral Assignment
- Merger
- Change of Name

Execution Date: 2/28/04

2. Name and address of receiving party(ies)

Name: Cris E. Pasto

Internal Address: _____
Address: _____

Street Address: 295 Van Etten Road

City: Spencer State: NY Zip: 14883

- Individual(s) citizenship USA
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- 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) 76/238,187

B. Trademark Registration No.(s) 2,040,382
2,255,206

Additional number(s) attached Yes No

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

Name: Brown & Michaels PC

Internal Address: _____

Street Address: 400 M&T Bank Building
118 North Tioga Street

City: Ithaca State: NY Zip: 14850

6. Total number of applications and registrations involved: _____

3

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

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

02-0910

DO NOT USE THIS SPACE

9. Signature.

Thomas T. Aquilla
Name of Person Signing

Thomas T. Aquilla
Signature

3/26/2004
Date

11

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

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

CH \$90.00 020910 76238187

COLLATERAL ASSIGNMENT OF TRADEMARKS

ASSIGNMENT dated the 28th day of February, 2004, between Cris Pasto, an individual having his address at 295 Van Etten Road, Spencer, New York 14883 (the "Seller"), and RES-Q-JACK, INC., a corporation organized and existing under the laws of the State of New York, with offices at 133 Philo Road West, Elmira, New York 14903, (the "Buyer").

WITNESSETH:

WHEREAS, the Seller and the Buyer entered into an Asset Purchase Agreement dated February 17, 2004 (the "Purchase Agreement"), pursuant to which the Seller has agreed to sell and the Buyer has agreed to purchase certain of the assets of Seller's Rescue Stabilization and Deck Construction Tool business as defined in 1.1A thereof and in exchange for cash, a promissory note (the "Note") executed concurrently with the execution of this Collateral Assignment and other consideration in accordance with the terms and conditions contained therein; and

WHEREAS, to induce the Seller to enter into the Purchase Agreement and to accept the Note and in consideration thereof, the Buyer has agreed to assign to the Seller certain trademark and trade name rights as collateral security for the full and prompt performance of the Buyer of its obligations under the Purchase Agreement, the Note, and certain related documents executed as part of the sale, including, but not limited to a Consulting Agreement and Covenant Not To Compete (the "Additional Agreements"), and each of them, all on the terms hereinafter set forth;

NOW, THEREFORE, the parties hereby agree as follows:

1. Assignment; Obligations.

- (a) **Assignment.** To secure the complete and timely payment and performance of its obligations under the Purchase Agreement, Note, Additional Agreements and this Assignment, the Buyer hereby grants, assigns and conveys to the Seller the entire right, title and interest in and to the trademark applications, trademarks and trade names listed in Schedule A hereto (as the same may be amended pursuant hereto from time to time), and the full and exclusive benefit of them and all renewals thereof, including without limitation all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto, (collectively called the "Trademarks"), and the goodwill of the business to which each of the Trademarks relates, as fully and entirely as such rights would be held and enjoyed by the Buyer.

(b) **Obligations.** The obligations secured by this Assignment shall consist of any and all debts, obligations, and liabilities of the Buyer to the Seller arising out of or related to the Purchase Agreement, Note or Additional Agreements, whether now existing or hereafter arising, and whether absolute or contingent, contractual or tortuous, liquidated or unliquidated, arising by operation of law or otherwise, and whether or not extended, modified, restructured, refinanced or replaced.

2. **Buyer's Representations and Warranties.** The Buyer hereby makes the following representations and warranties for the benefit of the Seller:

- (a) Existence. It is duly incorporated and validly existing under the laws of the State of New York; it is duly qualified to conduct business in the State of New York; and it has the corporate power and authority to own its property and assets and to carry on its business as it is now being conducted;
- (b) Enforceability. It has the corporate power and authority to execute, deliver and carry out the terms and provisions of this Assignment, the Purchase Agreement and any other agreements and documents executed under or in connection with this Assignment and the Purchase Agreement, and it has taken all necessary corporate action to authorize the execution, delivery and performance of this Agreement, the Purchase Agreement, the Note and the Additional Agreements; this Assignment, the Purchase Agreement, the Note and the Additional Agreements constitute the legally binding obligations of the Buyer and are enforceable against the Buyer in accordance with their respective terms;
- (c) Ownership and Priority. Buyer is the sole and exclusive owner of and has unencumbered right, title and interest in and to each of the Trademarks, free and clear of any liens charges and encumbrances (including, without limitation, pledges, assignments, licenses, registered user agreements and covenants by Buyer not to sue third parties);
- (d) Accuracy of Information. All information heretofore, herein or hereafter supplied to the Seller by or behalf of the Buyer with respect to the Trademarks is true and correct;
- (e) No Default. The Buyer is not in default and would not with the giving of notice or passage of time or both be in default under any agreement to which it is a party or by which it or any of its property may be bound; and no litigation, arbitration or administrative proceeding is currently pending or threatened which might have an adverse effect on the business, assets or financial condition of the Buyer.

3. **Affirmative Covenants of Buyer.**

- (a) Payment of Obligations. The Buyer will timely pay all amounts comprising the Obligations at the times and in the manner provided in the Purchase Agreement, Note, and Additional Agreements, as applicable;
- (b) Improvements. If the Buyer shall obtain rights to any new trademarks or trade names, the Buyer will immediately provide written notice thereof to the Seller. Regardless of such notice, the terms and conditions of this Assignment shall automatically apply to any and all new trademarks and trade names;
- (c) No Inconsistent Agreements. The Buyer shall not enter into any agreement which is inconsistent with the Buyer's obligations under this Assignment;
- (d) Prosecution of Applications. The Buyer shall diligently prosecute any trademark applications or trade name registrations of the Trademarks transferred to the Buyer pursuant to the Purchase Agreement until the Obligations have been paid in full. The Buyer shall make federal application of any registrable but unregistered trademarks and trade names subsequently employed by it, file and prosecute opposition and cancellation proceedings and do any and all acts which are necessary or desirable to preserve and maintain all rights in such trademarks and trade names. Any expenses incurred in connection with such Trademarks shall be borne by the Buyer. The Buyer shall not abandon any trademark or trade name without the prior written consent of the Seller which shall not be unreasonably withheld;
- (e) Records. The Buyer shall keep separate, accurate, and compete records of the Trademarks and shall provide the Seller with such records and other reports and information relating to the Trademarks as the Seller may reasonably request from time to time;
- (f) Further Assurances. The Buyer shall procure, execute, and deliver, from time to time, any indorsements, applications, notifications, registrations, assignments, financing statements, or other instruments or documents required for filing pursuant to any applicable statute or regulation, or deemed necessary or appropriate by the Seller to perfect, maintain and protect his security interest in the Trademarks or any after acquired trademarks or trade names includible hereunder and the priority thereof; and to take such other actions as the Seller may request to protect the Seller's interest therein; and

(g) Costs. The Buyer shall reimburse the Seller upon demand for any costs and expenses, including, without limitation, legal fees and disbursements and court costs and the cost of appellate proceedings) the Seller may incur while exercising enforcing, preserving or defending any right, power or remedy provided by this Assignment, the Purchase Agreement, Note and Additional Agreements, or by law, all of which expenses and costs are included in the Obligations.

4. **Benefit of Improvements.** If, before the Obligations shall have been satisfied in full, the Buyer shall obtain rights to any new trademarks or trade names, or become entitled to the benefit of any renewal thereof, the provisions of Section 1 shall automatically apply. The Buyer authorizes the Seller to modify this Assignment by amending Schedule A to include any future trademarks or trade names which are or become subject to this Assignment. The Buyer shall, at the request of the Seller, execute such additional assignments or other documents as may be necessary or useful to assign such future trademarks or trade names to Seller under this Assignment.
5. **Use of Trademarks.** Unless and until there shall have occurred a Default, Seller hereby grants to the Buyer the exclusive, nontransferable right and license to use the Trademarks on and in connection with the products sold by the Buyer, for the Buyer's own benefit and account and for none other. Buyer agrees not to sell, or assign its interest in, or grant any sub-license under, the license granted to the Buyer hereunder without the prior written consent of the Seller, which consent shall not be unreasonably withheld.
6. **Default.** A default under this Assignment shall be deemed to exist upon the occurrence of an Acceleration Default under the Purchase Agreement.
7. **Remedies.** Upon the occurrence of any default, the Seller may, at his option, and without notice to or demand in the Buyer and in addition to all rights and remedies available to the Seller under the Purchase Agreement, Note and Additional Agreements, do any one or more of the following:
 - (a) Termination of License. If any Default shall have occurred, the Buyer's license under the Trademarks, as set forth in Section 5, shall terminate and the Seller shall have, in addition to all other rights and remedies given to him by this Assignment, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code;
 - (b) Right to License. If any Default shall have occurred, the Seller may, from time to time, grant, upon such terms and conditions as the Seller shall see fit, licenses to third parties to use the Trademarks at a royalty or other periodic payment. The Seller may receive and retain the moneys arising therefrom and apply the same in reduction or payment of the Obligations;

- (c) Right to Sell. If any Default shall have occurred, the Seller may, at any time thereafter, either before or after the grant of any license(s) under paragraph (b) hereof, without demand of performance and without other notice (except as set forth in paragraph (d) hereof), or demand whatsoever to the Buyer, all of which the Buyer hereby expressly waives, and without advertisement, sell at public or private sale or otherwise realize upon the Trademarks, or any part thereof, or any interest which the Buyer may have therein;
- (d) Manner of Sale. Buyer shall be given five (5) business days prior notice of the time and place of any public sale or of the time after which any private sale or other intended disposition of Trademarks is to be made, which notice Seller hereby agrees shall be reasonable notice thereof;
- (e) Delivery to and Rights of Purchaser. Upon any sale or other disposition pursuant to this Assignment, Seller shall have the right to deliver, assign, and transfer to the purchaser thereof the Trademark rights or portion thereof so sold or disposed of. Each purchaser at any such sale or other disposition, including the Seller, shall hold the Trademarks and rights thereunder free from any claim or right of whatever kind, including any equity or right of redemption of Buyer and the Buyer specifically waives (to the extent permitted by law) all rights of redemption, stay or appraisal which it has or may have under any rule of law or statute now existing or hereafter adopted.
- (f) Disposition of Proceeds. After deducting from the proceeds of any sale, license or other disposition of the Trademarks, or any rights thereunder, all expenses (including without limitation all reasonable expenses for brokers' fees and legal services) the Seller shall apply the residue of such proceeds toward payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to the Buyer.

8. **Authorized Action.** If any Default shall have occurred, Buyer hereby authorizes and empowers the Seller, and hereby irrevocably makes, constitutes and appoints the Seller as its attorney-in-fact, to exercise such rights and powers as the Buyer may have with respect to the Trademarks, including, without limitation, to execute in the name of the Buyer all applications, documents, papers and instruments necessary or useful to enable the Seller to (a) preserve and maintain all rights in any trademark or trade name application and the Trademarks; (b) grant, issue or enter into any exclusive or nonexclusive license under the Trademarks to any third person and to collect by legal proceedings or otherwise and indorse, receive and receipt for all royalties, payments, proceeds, and other sums and property now or hereafter payable on or account of such licenses; (c) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to any third person; and (d) notify any sub licensee with respect to any Trademark to make royalty or other payments directly to the Seller.
9. **Cumulative Rights.** The rights, powers, and remedies of the Seller under this Assignment shall be in addition to all rights, powers, and remedies given to the Seller by virtue of any statute or rule of law, the Purchase Agreement, Note or Additional Agreements, all of which rights, powers, and remedies shall be cumulative and may be exercised successively or concurrently without impairing the Seller's interest in the Trademarks hereunder. The Seller will not be required to resort to or pursue any of his rights or remedies under or with respect to any other agreement or with respect to any other collateral, guarantee or other security before pursuing any of his rights or remedies under this Assignment. The Seller may pursue his rights and remedies in such order as the Seller determines.
10. **Irrevocability.** This Assignment is irrevocable and shall not terminate unless and until: (a) the Obligations shall have been paid in full and (b) no person who shall have made payment on the Obligations, directly or indirectly, shall commence or have commenced against it as debtor any bankruptcy or insolvency proceeding for a period of 140 days following such payment, or, if longer, any preference period under any applicable state insolvency law plus ten days.
11. **Termination.** At such time as (a) the Obligations shall have been paid in full, and (b) the applicable preference period referred to in Section 10 shall have expired, this Assignment shall terminate and the Seller shall execute and deliver to the Buyer all deeds, assignments and other instruments as may be necessary or proper to re-vest in the Buyer full title to the Trademarks, subject to any disposition thereof which may have been made by Seller upon a Default pursuant hereto.
12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the law of the State of New York, without giving effect to choice of law rules.

13. **Waiver.** Any waiver, forbearance, failure or delay by Seller in exercising any right, power, remedy, or privilege shall not operate as a waiver thereof nor preclude the further exercise thereof. Any single or partial exercise of any right, power, remedy or privilege shall not preclude any other or further exercise thereof or the exercise of any other right, power, remedy or privilege. Every right, power, remedy and privilege of the Seller shall continue in full force and effect until such right, power, remedy, or privilege is specifically waived in a writing executed by the Seller. No waiver shall be applicable except in the specific instance for which it is given.
14. **Binding Upon Successors.** All rights of the Seller under this Assignment shall inure to the benefit of his heirs, executors, administrators and assigns. All obligations of the Buyer shall bind its successors and assigns.
15. **Notices.** All notices, requests, demands and other communications must be in writing and may be delivered personally or sent by mail, courier, or other written means of communication addressed to the Buyer or the Seller, as the case may be, at their respective addresses set forth above, or to such other address as to which notice is given. Notice shall be deemed given on receipt.
16. **Amendment.** This Assignment may not be amended or terminated except by an instrument in writing signed by each of the parties hereto.
17. **Construction.** If any court of competent jurisdiction holds any provision of this Assignment invalid or unenforceable, the other provisions of this Assignment will remain in full force and effect. Any provision of this Assignment held invalid or unenforceable only in part or degree will remain in full force and effect to the extent not held invalid or unenforceable.
18. **References.** Section headings are for purposes of convenience only and shall have no bearing on the interpretation of any provision in this Assignment. All words used in this note shall be construed to be of such gender and number, as the circumstances require. The words "herein" and "hereunder" and similar references refer to this Assignment in its entirety and not to any specific provision thereof.
19. **Counterparts.** This Assignment may be executed in counterparts each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same document.

IN WITNESS WHEREOF, the Seller and the Buyer have executed this Assignment as of the day and year first above written.

RES-Q-JACK, INC.

By:

Name: John Meier

Seller

By:

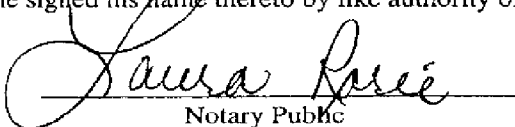
Name: Cris Pasto

Title: President

Title: Sole Proprietor

State of New York)
 ss.:
 County of Chemung)


On the 28th day of February in the year 2004 before me personally came John Meier, to me known, who, being by me duly sworn, did depose and say that he resides in Elmira, NY; that he is the President of RES-Q-JACK, INC., the corporation described in and which executed the above instrument; and that he signed his name thereto by like authority of the board of directors of said corporation.


 Notary Public

LAURA RORIE
 Notary Public, State of New York
 Chemung County No. 01RO4976272
 Commission Expires Jan. 14, 20 07

State of New York)
 ss.:
 County of Chemung)

On the 28th day of February in the year 2004 before me, the undersigned, a Notary Public in and for said State, personally appeared Cris Pasto, personally know to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.


 Notary Public

RICHARD W. MERTENS
 Notary Public, State of New York
 No. 02ME4519350
 Qualified in Broome County
 Commission Expires May 31, 20 06

Trademark Collateral Assignment-----Schedule A

SCHEDULE ~~2.2~~) **A**
Schedule of Trademarks, Tradenames & Slogans

Unless specifically excluded on Schedule 2.2, Seller hereby sells, transfers and assigns all his right title and interest in and to all Tradenames and Trademarks with respect to the Business or Assets hereby sold to Buyer, including but not limited to the following:

Tradenames/Trademarks

BoWrench Deck Tool TM No. 2,040,382

QuikJack Hardwood Flooring Tool TM No. 2,255,206

Tradenames/Trademarks Pending

Res-Q-Jack Vehicle Stabilization System TM Application Serial #76238187

SCHEDULE A TO COLLATERAL ASSIGNMENT
OF TRADENAMES DATED 2-28-04

SCHEDULE ~~2.2~~) **A**
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