

08-11-2004

Form PTO-1594 (Rev. 06/04)
OMB Collection 0651-0027 (exp. 6/30/20)



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

102810671

RECEIVED ONLY

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):

Ecovation, Inc. **8-4-04**
(f/k/a Anaerobics, Inc.)

- Individual(s)
- General Partnership
- Corporation-State New York
- Other

Citizenship (see guidelines)

Execution Date(s) June 30, 2004

Additional names of conveying parties attached? Yes No

3. Nature of conveyance:

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

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Pleasant T. Rowland Revocable Trust and W. Jerome Frautschi Living Trust
Internal

Address: c/o Vogel Consulting Group

Street Address: 3415 Gateway Road

City: Brookfield

State: WI

Country: USA Zip: 53045

- Association Citizenship
- General Partnership Citizenship
- Limited Partnership Citizenship
- Corporation Citizenship
- Other Trusts Citizenship USA

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)

4. Application number(s) or registration number(s) and Identification or description of the Trademark.

A. Trademark Application No.(s)

78/333,251

B. Trademark Registration No.(s)

Additional sheet(s) attached? Yes No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

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

Name: Thomas P. Solheim

Internal Address: Solheim Billing & Grimmer

Street Address: One South Pinckney St., #301

City: Madison

State: WI Zip: 53703

Phone Number: (608) 282-1234

Fax Number: (608) 282-1218

Email Address: tsolheim@sbglaw.com

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$40.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

B. Payment Information:

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number _____

Authorized User Name _____

8. Signature: Thomas P. Solheim

Signature

8/4/04

Date

Thomas P. Solheim

Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 10

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

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08-11-2004

Form PTD-1594 (Rev. 06/04)
OMB Collection 0651-0027 (exp. 5/30/2005)

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



8404

R 102810672

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):

Ecovation, Wastewater Treatment Company, Inc. (f/k/a Anaerobics Wastewater Treatment Company, Inc.)

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

Citizenship (see guidelines)

Execution Date(s) June 30, 2004

Additional names of conveying parties attached? Yes No

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached? Yes No

Name: Pleasant T. Rowland Revocable Trust and W. Jerome Frantschi Living Trust Internal

Address: c/o Vogel Consulting Group

Street Address: 3415 Gateway Road

City: Brookfield

State: WI

Country: USA Zip: 53045

- Association Citizenship
- General Partnership Citizenship
- Limited Partnership Citizenship
- Corporation Citizenship
- Other Trusts Citizenship USA

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)

3. Nature of conveyance:

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

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

78/333,251

B. Trademark Registration No.(s)

Additional sheet(s) attached? Yes No

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Street Address: One South Pinckney St., #301

City: Madison

State: WI Zip: 53703

Phone Number: (608) 282-1234

Fax Number: (608) 282-1218

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- Authorized to be charged to deposit account
- Enclosed

B. Payment Information:

a. Credit Card Last 4 Numbers _____ Expiration Date _____

b. Deposit Account Number _____

Authorized User Name _____

9. Signature:

Thomas P. Solheim

8/4/04

Signature

Date

Thomas P. Solheim

Name of Person Signing

Total number of pages including cover sheet, attachments, and document: 10

Restated Security Agreement regarding Patents and Trademarks

This Restated Security Agreement regarding Patents and Trademarks (the "Agreement") is made as of June 3rd, 2004 (the "Effective Date"), by and between Ecovation, Inc. f/k/a AnAerobics, Inc., a New York corporation (the "Debtor"), and Pleasant T. Rowland Revocable Trust and W. Jerome Frautschi Living Trust (each, a "Secured Party," whether one or both), and amends, and, as amended, restates a prior Security Agreement regarding Patents and Trademarks from Debtor to U.S. Bank National Association (the "Bank") dated as of October 22, 2003, the Bank's interest in which has been assigned to Secured Parties hereunder.

RECITALS

WHEREAS, Debtor is the owner of certain trademark registrations, trademark applications, and/or common law trademarks, and patents and/or patent applications (herein referred to as the "Intellectual Property");

WHEREAS, Ecovation Wastewater Treatment Company, Inc. f/k/a AnAerobics Wastewater Treatment Company, Inc. (the "Borrower"), a wholly-owned subsidiary of Debtor is concurrently borrowing from the Secured Parties the principal sum of \$30,000,000.00 as evidenced by two promissory notes, each in the face amount of \$15,000,000 of even date herewith executed by Debtor, payable to the order of each Secured Party (the "Line of Credit Notes") and two term notes of even date herewith as executed by Borrower, payable to the order of each Secured Party (the "Term Notes") (collectively, the Line of Credit Notes and Term Notes are referred to as "Notes"), and the Debtor has guaranteed payment of the Notes pursuant to a Restated Corporate Guaranty dated the date hereof ("Guaranty"); and

WHEREAS, the Debtor has agreed to enter into this Agreement in order to induce the Secured Party to accept the Notes issued by the Borrower.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the recipient and sufficiency of which is hereby acknowledged, and in consideration of the covenants and agreements set forth herein, Debtor and Secured Parties mutually agree as follows:

1. Definitions of Intellectual Property. The term "Intellectual Property" shall mean those trademark registrations, trademark applications, and/or common law trademarks, and patents and/or patent applications listed in Appendix A attached hereto and made a part hereof, as well as: (a) all common law rights therein; (b) all goodwill associated therewith; (c) all renewals thereof, (d) any and all patents maturing from a continuation, continuation-in-part, division, reissue, or reexamination of any patents and regardless of whether such patent matures from a convention or non-convention application or any other substitution, renewal, extension, addition, utility model, or other United States or foreign patent, (e) all rights of action, powers and benefits accrued thereto, including the right to sue for and collect damages and payments for past or future infringements thereof.

2. Definitions. Except as to those terms otherwise defined in this Agreement, all capitalized terms used in this Agreement shall have the respective meanings ascribed to them in the Note and any supporting loan documents.

3. Security Interest in Intellectual Property. In order to secure the Guaranty, due and punctual payment of the Notes and all renewals, modifications, or additions to the debt represented thereby, and the performance of all other obligations of the Debtor and the Borrower owing to the Secured Parties from time to time (including, without limitation, obligations pursuant to any loan agreement or other security agreements or other documents relating to the Notes) (collectively the "Obligations"), the Debtor hereby grants to the Secured Parties a continuing security interest in and to the Intellectual Property which security interest shall secure the Notes equally and ratably, without preference or priority as among them. The security interest granted by Debtor to Secured Parties in this Agreement is granted free and clear of all leases, liens, security interests, rights of first refusal, options or similar restrictions, except for the permitted liens described in attached Appendix B ("Permitted Liens"). The security interests granted pursuant to this Section 3 are for security purposes only.

4. Use of Intellectual Property. Notwithstanding anything to the contrary contained herein, unless an Event of Default has occurred and is continuing, the Debtor may continue to exploit, license, use, enjoy and protect the Intellectual Property and the Secured Parties shall from time to time promptly execute and deliver, upon written request of the Debtor, any and all instruments, certificates or other documents, in the form so requested, necessary or appropriate in the reasonable judgment of the Debtor to enable the Debtor to continue to exploit, license, use, enjoy and protect the Intellectual Property,

5. Filing of Financing Statements and Other Instruments. The Debtor: (i) will, at its expense, execute, deliver, file and record (in such manner and form as the Secured Parties shall reasonably require), or permit the Secured Parties to file and record, such financing statements, continuation statements and other instruments and documents (including without limitation this Agreement), and, if an Event of Default has occurred and is continuing, assignments (subject to licenses previously granted in the ordinary course of Debtor's business), in such offices (including without limitation the United States Patent and Trademark Office) as the Secured Parties may reasonably deem necessary or appropriate in order to perfect and preserve the rights and interests granted to the Secured Parties hereunder; (ii) hereby authorizes the Secured Parties to file and record such instruments and documents and any other instruments or documents related thereto; and (iii) agrees to do such further acts and things, and to execute and deliver to the Secured Parties such additional instruments and documents, as the Secured Parties may reasonably require to carry into effect the purposes of this Agreement or to better assure and confirm unto the Secured Parties their respective rights, powers and remedies hereunder; provided, however, that the Secured Parties shall give the Debtor prompt notice of any action taken or to be taken by the Secured Parties pursuant to this Section 5. All of the foregoing are to be at the sole cost of the Debtor. Any costs of the foregoing incurred by the Secured Parties shall be payable by the Debtor within five (5) days of demand by the Secured Parties, and shall constitute so much additional Obligations. The Debtor hereby appoints each Secured Party as the Debtor's attorney-in-fact to execute and file, if an Event of Default has occurred and is continuing, in the name and on behalf of the Debtor, any additional Financing Statements or

assignments (subject to licenses previously granted in the ordinary course of Debtor's business) as the Secured Party may reasonably request.

6. Representations and Warranties. Debtor expressly represents and warrants that:

a. Debtor owns the entire right, title and interest in, and to each of the Intellectual Property.

b. Debtor has not received any notification that the Intellectual Property infringes on any intellectual property rights of others in any material respect.

c. There are no claims, demands or proceedings instituted, pending or to the knowledge of Debtor, threatened in writing by any third party pertaining to or challenging Debtor's rights to the Intellectual Property, or the right to use such Intellectual Property in its business.

d. Debtor knows of no facts that would render any of the Intellectual Property unenforceable or subject to a third party infringement action. Each Secured Party represents that it has the power to enter into this Agreement and perform the obligations assumed hereunder.

e. The Debtor's rights in such Intellectual Property are and shall remain free and clear of any lien, pledge, security interest, encumbrance, license, assignment, collateral assignment or charge of any kind, including without limitation any filing of or agreement to file a financing statement as Debtor under the Uniform Commercial Code or any similar statute, except for the lien and security interest created by this Agreement and except for the Permitted Liens. Except for the Permitted Liens, the Debtor has not made a previous assignment, conveyance, transfer or agreement in conflict herewith. The Debtor further represents and warrants to the Secured Parties that Appendix A hereto is a true and correct list of all Intellectual Property owned or used by the Debtor as of the date hereof and that Appendix A is true and correct with respect to the matters set forth therein as of the date hereof.

f. The Debtor has full power to grant a security interest in all the Intellectual Property pursuant to this Agreement.

g. The Debtor has made the filings and recordations to protect its interest in the Intellectual Property as set forth on Appendix A.

h. Upon filings and the acceptance thereof in the appropriate offices under the Uniform Commercial Code and in the United States Patent and Trademark Office, this Agreement will create a valid and duly perfected lien and security interest in the Intellectual Property located in the United States subject only to the lien and security interest created by this Agreement and the Permitted Liens.

7. Covenants of the Debtor. The Debtor hereby covenants and agrees that:

a. Except for Permitted Liens, the Debtor will defend the Intellectual Property and the security interests therein against all claims and demands of all Persons at any time claiming any adverse interest with respect thereto.

b. The Debtor will, promptly following its becoming aware thereof, notify the Secured Parties of (A) any final adverse determination in any proceeding in the United States Patent and Trademark Office with respect to any of the Intellectual Property or (B) the institution of any proceeding or any adverse determination in any federal, state, local or foreign court or administrative bodies regarding the Debtor's claim of ownership in or right to use any of the Intellectual Property, its right to register any such Intellectual Property or its right to keep and maintain such registration.

c. The Debtor will not sell or offer to sell or otherwise assign, transfer or dispose of, or grant any option with respect to any of the Intellectual Property or any interest therein (other than licenses to use the Intellectual Property which are granted in the ordinary course of the Debtor's business) without the prior written consent of the Secured Parties.

d. The Debtor agrees to modify this Agreement by amending Appendix A hereto to include any future Intellectual Property.

8. Grant of License to Intellectual Property. Without in any way limiting the scope of the lien and security interest created hereby, the Debtor hereby grants to the Secured Parties an irrevocable, nonexclusive license and right to use all of the patents and/or patent applications included in the Intellectual Property in the processing, production, marketing, distribution or sale by the Secured Parties of all or any part of its collateral for the Obligations in connection with any foreclosure or other realization on such collateral. The license and rights granted the Secured Parties hereby shall be exercisable without the payment of any royalty, fee, charge or any other compensation to the Debtor or any other party. Such license and rights shall include reasonable access to all records in which any of the licensed items may be recorded or stored. Such license and rights shall be absolute and unconditional to the extent used for the purpose stated above.

9. Termination of Security Interests and Licenses; Release of Intellectual Property; Revival of Obligations. Upon the repayment and performance in full of all of the Obligations, the security interest and license granted to the Secured Parties shall terminate and all rights in the Intellectual Property shall revert to the Debtor. Upon any such termination of the security interests and licenses or release of the Intellectual Property, the Secured Parties will, at the Debtor's expense, promptly execute and deliver to the Debtor such documents as the Debtor shall reasonably request to evidence the termination of the security interests and licenses or the release of such Intellectual Property as the case may be. Said execution and delivery shall include an instrument in form recordable in the United States Patent and Trademark Office by which the Secured Parties shall terminate, release and without representation, recourse or warranty, reassign to the Debtor all rights in such Intellectual Property. If any payment applied by the Secured Parties to Obligations is thereafter set aside, recovered, rescinded or required to be returned for any reason (including, without limitation, the bankruptcy, insolvency or reorganization of Debtor or any other obligor), the Obligations to which such payment was

applied shall for the purposes of this Agreement be deemed to have continued in existence, notwithstanding such application, and this Agreement shall be enforceable as to such Obligations as fully as if such application had never been made, notwithstanding the surrender of any Note, termination of any financing statement, or cancellation of any instrument or document.

10. General Provisions.

a. Severability. It is expressly agreed that if any term or provision of this Agreement is invalid or unenforceable in any jurisdiction, then such provision in such jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Agreement or affecting the validity or enforceability of any of the terms or provisions of this Agreement in any other jurisdiction.

b. No Waiver. Failure of any party at any time to require performance of any provision of this Agreement shall not affect the right of any party to require full performance thereafter; a waiver by any party of a breach of any provision of this Agreement shall not constitute a modification of this Agreement or prevent that party from again enforcing such term or condition in the future with respect to subsequent events.

c. Relationship of the Parties. The relationship established between the parties by this Agreement shall be solely that of debtor and secured party. Neither party hereto shall have any right or shall attempt to enter into contracts or commitments on behalf of the other party or to bind the other party in any respect whatsoever.

d. Counterparts; Facsimile Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one document. This Agreement may be signed by facsimile, and facsimile signatures shall be binding, but the parties shall provide each other with originally signed copies of the Agreement as soon as possible thereafter.

e. Captions. The captions in this Agreement are intended solely as a matter of convenience and shall be given no effect in the construction or interpretation of this Agreement.

f. Recitals. The parties agree that the recitals prior to Section 1 of this Agreement are true and correct and are hereby incorporated herein by this reference.


g. Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Wisconsin, USA.

h. Further Assurances. Upon request by any party to this Agreement, the other party shall take, or cause to be taken, all actions and do, or cause to be done, all things necessary, proper or appropriate to effectuate the transactions contemplated by this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed as of the date first written above.

DEBTOR:

Ecovation, Inc.
f/k/a Anaerobics, Inc.

By: 
Name: David C. Croal
Title: CEO

APPENDIX A

LIST OF THE ASSIGNED TRADEMARKS AND PATENTS

Trademark Name	Country	Application Number	Application Date	Registration Number	Registration Date
Ecovation	US	78/333,251	Nov. 23, 2003		

Title of Patent/ Publication	Country	Publication/ Patent Number	Filing Date	Application Number	Date of Issuance/ Publication
See Attached App. A					

APPENDIX A

AnAerobics, Inc.

Patent Report by Invention
Status: ACTIVE

Printed: 10/21/2003 Page 1

COUNTRY	REFERENCE#	TYPE	FILED	SERIAL#	ISSUED	PATENT#	STATUS
PROCESS AND APPARATUS FOR THE TREATMENT OF FLOWABLE WASTE							
CANADA	29331.000006	DCA	4/22/1997	2,251,690			PENDING
MEXICO	29331.000004	DCA	10/19/1998	988624			PENDING
UNITED STATES	29331.000003	NEW	4/26/1996	58638,640	3/31/1998	5,733,454	ISSUED
EUROPEAN PATENT	29331.000005	DCA	4/22/1997	97922374.0	1/15/2003	0900178	NAT PHASE
WIPO	29331.000032	CEQ	4/22/1997	PCT/US87/06653			NAT PHASE

PROCESS AND APPARATUS FOR THE TREATMENT OF FLOWABLE WASTE							
AUSTRIA	29331.000014	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
BELGIUM	29331.000015	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
SWITZERLAND	29331.000016	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
GERMANY	29331.000017	DCA					PROPOSED
DENMARK	29331.000018	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
SPAIN	29331.000020	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
FINLAND	29331.000019	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
FRANCE	29331.000021	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
UNITED KINGDOM	29331.000022	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
GREECE	29331.000023	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
IRELAND	29331.000024	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
ITALY	29331.000025	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
LUXEMBOURG	29331.000026	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
MONACO	29331.000027	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
NETHERLANDS	29331.000028	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
PORTUGAL	29331.000029	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED
SWEDEN	29331.000030	DCA	4/22/1997	97922374.0	1/15/2003	0900178	ISSUED

PROCESS FOR THE ANAEROBIC TREATMENT OF FLOWABLE AND NONFLOWABLE ORGANIC WASTE							
UNITED STATES	29331.000011	NEW	9/25/2001	09/962,394	4/29/2003	6,555,359	ISSUED
WIPO	29331.000012	CEQ	9/18/2002	PCT/US02/29693			PUBLISHED

END OF REPORT

TOTAL ITEMS SELECTED * 24