

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM533744

SUBMISSION TYPE:	RESUBMISSION		
NATURE OF CONVEYANCE:	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
RESUBMIT DOCUMENT ID:	900504490		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Eckler Industries, Inc.		10/16/2018	Corporation: FLORIDA
RECEIVING PARTY DATA			
Name:	Dako Industries, LLC		
Doing Business As:	DBA Performance Products		
Street Address:	1200 White Dr Ste E		
City:	Titusville		
State/Country:	FLORIDA		
Postal Code:	32780		
Entity Type:	Limited Liability Company: FLORIDA		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Serial Number:	75732336	PERFORMANCEPRODUCTS.COM	
Serial Number:	74145969	PERFORMANCE PRODUCTS	
CORRESPONDENCE DATA			
Fax Number:	3212492513		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	3214204184		
Email:	rholodak@dakoind.com		
Correspondent Name:	Rebecca Holodak		
Address Line 1:	1200 White Dr Ste E		
Address Line 4:	Titusville, FLORIDA 32780		
NAME OF SUBMITTER:	Rebecca L. Holodak		
SIGNATURE:	/Rebecca L. Holodak/		
DATE SIGNED:	07/26/2019		
Total Attachments: 13			
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ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT (this "Agreement") is made on October 16, 2018 (the "Effective Date") between *Eckler's Industries, Inc.*, a Delaware, USA corporation ("Seller"), and DAKO Industries, LLC, Titusville, FL 32796 limited liability company ("Buyer").

RECITALS:

WHEREAS, Seller is engaged in the business of distributing and selling restoration automotive parts and accessories under various trademarks through various channels of trade worldwide;

WHEREAS, Seller has a Mercedes MBZ business line that distributes and sells parts and accessories for the Mercedes MBZ restoration market; and

WHEREAS, Seller desires to sell and transfer the Assets (as defined below) related to the Mercedes MBZ Business to Buyer, and Buyer desires to purchase the same from Seller, subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, Buyer and Seller agree as follows:

ARTICLE I PURCHASE AND SALE OF ASSETS

1.1 Sales and Purchase of Assets. Pursuant to the terms and conditions set forth in this Agreement, Seller shall sell, transfer, assign, convey and deliver to Buyer, and Buyer shall purchase from Seller, the following assets owned by Seller and used to operate the Mercedes MBZ Business free and clear of all liens and encumbrances (collectively, the "Assets"):

(a) All of the tangible personal property, equipment, and physical inventory (the "Inventory") listed on Exhibit A hereto; and

(b) To the full extent transferable by law, all intellectual property rights owned by Seller and used in the operation of the Mercedes MBZ Business listed on Exhibit B hereto (the "Intellectual Property").

1.2 Purchase Price and Consideration. The purchase price for the sale, assignment, transfer, conveyance and delivery of the Assets to the Buyer, and in consideration for the agreements contained herein, shall be \$250,000 (the "Purchase Price"). Buyer shall pay the Purchase Price as follows:

(a) On the Effective Date, Buyer shall pay to Seller, via either a Cashier Check or a wire transfer to the account listed on Exhibit C, an initial deposit of \$100,000 (the "Initial Payment") which shall be nonrefundable except for as contemplated by Section 7.1(b) upon breach by Seller; and

(b) Immediately prior to the shipment of the Inventory ("Shipment") Buyer shall send a second payment to Seller, via a wire transfer to the account listed on Exhibit C, in the amount of \$150,000 (the "Second Payment").

ARTICLE II WEB HOSTING, ORDER & PAYMENT PROCESSING

2.1 Website Hosting Services. Seller agrees to provide Buyer with the services for hosting a website (the "Website") on the World Wide Web portion of the Internet (the "Hosting Services"). Seller shall provide the hosting services so that the website is accessible to third parties via the World Wide Web portion of the Internet. Seller is responsible only for providing the Hosting Services, and not for providing any services or performing any tasks not specifically described in this Agreement. Seller will provide website hosting services until December 21st, 2018, unless it has been notified earlier by the Buyer.

2.2 Content Maintenance. Seller will maintain the websites for ordering purposes only, and will remove all products with zero inventory; unless Buyer informs Seller with any new stock quantities on hand, then Seller will update quantities and make those products available on the website for ordering. No back-orders will be allowed.

2.3 Fees for Hosting Services. Seller will charge Buyer with twenty-five percent (25.0%) in hosting fees of all Net Sales generated, from the day that the inventory is transferred to the Buyer and up until the Buyer assumes full responsibility of hosting its own website; which Seller's website hosting responsibilities will automatically end. Upon then, all web traffic to the three URLs, as per Exhibit B, will be re-directed to the one provided by the Buyer.

2.4 Drop Shipments via 3rd Party. No 3rd Party Drop Shipments orders will be taken, until Buyer informs Seller to include those supplier's products on the website. 3rd Party and Buyer will arrange the payment of Purchasing Orders directly. Seller should not have any responsibility in those transactions.

2.5 Processing of Customer Payments. Seller will collect 25.0% of all Net Sales. Buyer will be responsible for all shipping cost and will receive all proceedings from shipping revenue. The processing of the payments will be handled as per below sequence of steps:

- a) Seller will process all orders in the system, and will collect all payments from Customers
- b) Seller will issue a Purchasing Order to all Drop Shipment vendors. Buyer will receive some or all of these POs for order fulfilment
- c) Buyer and other Drop Shipment vendors will fulfill orders, and ship to Customers
- d) Buyer issues an invoice to Seller for the exact amount as per issued Purchasing Order
- e) Seller will collect 25% of Net Sales, and pay Buyer with the balance on all orders

**ARTICLE III
REPRESENTATIONS AND WARRANTIES**

3.1 Seller's Representations and Warranties. Seller hereby makes the following representations and warranties to Buyer which are true and correct as of the Effective Date:

(a) **Organization, Standing and Qualification of Seller.** Seller is a corporation duly organized, validly existing, and in good standing under the laws of the State of Florida, and has all necessary corporate powers to carry on the Mercedes MBZ Business as now owned and operated.

(b) **Authority.** The person signing this Agreement on behalf of Seller has the full power and authority to sign and delivery this Agreement and no further action is required to authorize the signing and delivery of this Agreement. This Agreement constitutes the legally binding obligation of Seller in accordance with the terms hereof.

(c) **No Violation of Law.** Neither the execution, delivery of performance of this Agreement, nor the consummation of the transactions contemplated hereby is prohibited by, or requires Seller to obtain, any consent, authorization, approval or registration, under any law, rule or regulation.

(d) **Title to Assets.** Seller has good and marketable title to all of the Assets. All of the Assets will be conveyed to Buyer free and clear of restrictions on, or conditions to, transfer or assignment, and are free and clear of all liens.

3.2 Buyer's Representations and Warranties. Buyer hereby makes the following representations and warranties to Seller which are true and correct as of the Effective Date:

(a) **Organization, Standing and Qualification of Seller.** Buyer is a limited liability company duly organized, validly existing, and in good standing under the laws of the state of Florida, and has all necessary powers to carry on business as now owned and operated.

(b) **Authority.** The person signing this Agreement on behalf of Buyer has the full power and authority to sign and delivery this Agreement and no further action is required to authorize the signing and delivery of this Agreement. This Agreement constitutes the legally binding obligation of Buyer in accordance with the terms hereof.

(c) **No Violation of Law.** Neither the execution, delivery of performance of this Agreement, nor the consummation of the transactions contemplated hereby is prohibited by, or requires Buyer to obtain, any consent, authorization, approval or registration, under any law, rule or regulation.

**ARTICLE IV
COVENANT NOT TO COMPETE, NON-SOLICITATION**

4.1 Covenant Not to Compete. Buyer agrees that at no time will engage in any direct business activity of distributing or selling products for any of the current brands that the seller is

distributing or selling at the time. Seller agrees that at no time will engage in any direct business activity of distributing or selling any Mercedes MBZ products.

4.2 Non-solicitation. Buyer agrees not to solicit any employee or independent contractor of the Seller, nor shall the Buyer induce any employee or independent contractor associated with the Seller to terminate or breach an employment, contractual or other relationship with the Seller.

4.3 Soliciting Employees After Employment Termination. Seller and Buyer agree that will not employ any of each other employees for at least a period of 12-months after either their voluntary or involuntary termination.

4.4 Injunctive Relief. Buyer hereby acknowledges, (i) that the Seller will suffer irreparable harm if Buyer breach its obligations under this Agreement; and (ii) that monetary damages will be inadequate to compensate the Seller for such a breach. Therefore, if Buyer breach any of such provisions, then the Seller shall be entitled to injunctive relief, in addition to any other remedies at law or equity, to enforce such provisions.

ARTICLE V OBLIGATIONS OF BUYER AND SELLER

5.1 Generally. Between the Effective Date and the Shipment, Seller shall use commercially reasonable efforts to operate the Mercedes MBZ Business in all material respects in the ordinary course of business in accordance with past practices.

5.2 Prices and Inventory. Seller shall not increase nor decrease the advertised prices of the Mercedes MBZ Business products. Seller shall use commercially reasonable efforts to ensure that the Inventory remains unchanged and in no case increases or decreases by more than \$25,000 between the Effective Date and the Shipment.

5.3 Physical Count and Preparation for Shipment. Seller shall perform a physical counting of the Inventory as its prepared for Shipment and provide the Buyer with a detailed accounting of the Inventory by sending Buyer an updated version of Exhibit A upon Shipment.

5.4 Shipment. Upon receipt of the Second Payment, Seller shall ship the Inventory FOB Origin, from the Seller's distribution center to Buyer's location indicated under Article IX or such other address as designated by Buyer, *provided, that*, Buyer shall be responsible for arranging the shipment and for the associated cost. Unless, Buyer is willing to pick the Inventory from Seller's facility, using his own transportation means.

5.5 Assignment of IP. Upon receipt of the Second Payment, Seller shall deliver the Assignment of Intellectual Property in the form of Exhibit D hereto with respect to the Intellectual Property.

5.6 Bill of Sale. Upon receipt of the Second Payment, Seller shall deliver the Bill of Sale in the form of Exhibit E hereto, together with such other documents as Buyer may reasonably request to evidence the transactions contemplated hereby.

**ARTICLE VI
INDEMNIFICATION, LIMITATIONS**

6.1 Indemnification. Buyer shall indemnify and hold harmless Seller at all times from and after the Effective Date against and in respect of losses arising from or relating to; (i) any breach of any of the representations or warranties made by Buyer in this Agreement; and (ii) any breach of the covenants and agreements made by Buyer in this Agreement.

6.2 Limitation of Indemnity. The aggregate liability of Seller in connection with this Agreement shall not exceed the lesser of (i) the total amounts paid by Buyer to Seller or (ii) the Purchase Price *minus* the Initial Payment.

6.3 Waiver of Damages. SELLER SHALL NOT BE LIABLE UNDER THIS AGREEMENT, OR IN CONNECTION WITH THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, OR FOR LOST PROFITS OR OTHER BUSINESS INTERRUPTION LOSSES, BY STATUTE, IN TORT OR CONTRACT, OR UNDER ANY INDEMNITY PROVISION HEREUNDER OR OTHERWISE. Unless expressly provided herein, it is the intent of Seller and Buyer that, to the extent permissible under applicable Law, the limitations imposed herein on remedies and the measure of damages be without regard to the cause or causes related thereto, including the negligence of any party. However, nothing herein shall relieve any party of liability for fraud.

**ARTICLE VII
TERMINATION**

7.1 Termination. This Agreement may be terminated as follows:

- (a) Upon the mutual written consent of Buyer and Seller prior to the Shipment; or
- (b) By Buyer upon a breach of any Section of Article V.
- (c) By Seller upon any breach by Buyer of this Agreement, including but not limited to (i) the failure by Buyer to make any payment to Seller pursuant to Article I, or (ii) the breach by Buyer of any representation or warranty contained in Section 3.2.

7.2 Effect of Termination.

(a) In the event of the termination of this Agreement, pursuant to this Section 7.1, no party shall have any liability hereunder, except that nothing herein shall relieve any party hereto from liability from any breach of any representation under Article II prior to termination.

(b) Notwithstanding anything contained in Section 7.2(a) to the contrary, in the event of a termination of this Agreement pursuant to Section 7.1(a) or 7.1(c), Seller shall be entitled to retain any and all monies already paid by Buyer pursuant to Section 1.2.

**ARTICLE VIII
FORCE MAJEURE**

Neither Buyer nor Seller shall be held liable for any failure to comply with any of the terms of this Agreement caused solely by fire, acts of God, strike, war, insurrection, government restriction, or other causes beyond its control and without its fault, but not to include cost increases independent of such causes, provided the party failing to comply shall use all reasonable endeavors to cure such failure and comply with the terms of this Agreement as quickly as possible.

**ARTICLE IX
NOTICE**

Any notice or other communication required under this Agreement shall be addressed as follows:

If to Seller, to:

Eckler's Industries, Inc.
7980 Grissom Parkway
Titusville, FL 32780 - USA
george.kokkinos@ecklers.net

If to Buyer, to:

DAKO Industries, LLC
1875 Sir Pahe Lane
Titusville, FL 32796
tholodak@cfl.rr.com

**ARTICLE X
MISCELLANEOUS**

10.1 Entire Agreement. This This Agreement and the exhibits delivered in connection herewith constitute the entire agreement of the parties with respect to the subject matter hereof. The representations, warranties, covenants and agreements set forth in this Agreement and in any schedules or exhibits delivered pursuant hereto (which schedules and exhibits are incorporated by reference) constitute all the representations, warranties, covenants and agreements of the parties hereto and upon which the parties have relied, and except as specifically provided herein, no change, modification, amendment, addition or termination of this Agreement or any part thereof shall be valid unless in writing and signed by or on behalf of the party to be charged therewith.

10.2 Waivers and Amendments. This Agreement may be amended, superseded, canceled, renewed or extended and the terms hereof may be waived only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance.

10.3 Compliance with Laws. Each party agrees that it will comply with all applicable laws and regulations of governmental bodies or agencies in its performance under this Agreement.

10.4 Publicity. No press release or other public announcement concerning this Agreement or the transactions contemplated hereby shall be made without advance approval thereof by Seller and Purchaser, except as required by law.

10.5 Counterparts. This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. One or more counterparts of this Agreement may be delivered by facsimile, with the intention that delivery by such means shall have the same effect as delivery of an original counterpart.

10.6 Governing Law. This Agreement shall be governed by and construed in accordance with the internal laws of the State of Delaware, USA without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware, USA. Should any clause, section or part of this Agreement be held or declared to be void or illegal for any reason, all other clauses, sections or parts of this Agreement shall nevertheless continue in full force and effect.

[Signature page follows]

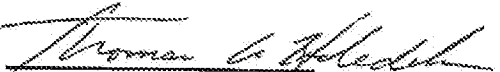
WHEREBY, the parties have caused this Agreement to be executed by their duly authorized officers as set forth below effective this 16th day of October, 2018.

Eckler's Industries, Inc.

DAKO Industries, LLC

By: 
Brian Grant

Title: CEO

By: 
Thomas A. Holodak

Title: President

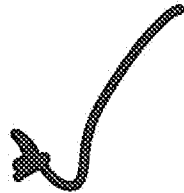


EXHIBIT B

INTELLECTUAL PROPERTY FOR MERCEDES MBZ

1) Domain Names:

URL: <http://www.performanceproducts.com/>

URL: <http://www.performanceproducts4benz.com/>

URL: <http://www.performance4benz.com>

2) Trademarks, Service Marks, Copyrights & Patents:

	Serial Number	Reg. Number	Work Mark	Check Status	Live/Dead
1	75732336	2470955	PERFORMANCEPRODUCTS.COM	TSDR	LIVE
2			PERFORMANCEPRODUCTS4BENZ.COM		
3			PERFORMANCE4BENZ.COM		
4	74145969	1736397	PERFORMANCE PRODUCTS	TSDR	LIVE

3) Vendor List

4) Customer List – Order History from 2014 to Now

5) Electronic Catalogs

6) Digital images

7) Inventory as per EXHIBIT A

8) Website Analytics: SEO, Pay-Per-Click, Product information

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REEL: 006703 FRAME: 0585

EXHIBIT C

Wire Instructions

To send wire, send payment to:

Sun Trust Bank, Atlanta Region

ABA or routing # 061000104

Account Name: EI Acquisition Corp., Eckler Industries Inc., dba as Eckler's

Deposit account #: 0047000361860

Swift Code SNTRUS3A

Local Bank Address:

Sun Trust Bank

1819 Cheney Hwy

Titusville, FL 32780

Phone #: 321-267-4412

Address On Statement:

Sun Trust Bank

PO Box 622227

Orlando, FL 32862-2227


TRADEMARK

REEL: 006703 FRAME: 0586

ASSIGNMENT OF INTELLECTUAL PROPERTY

THIS ASSIGNMENT OF INTELLECTUAL PROPERTY (this "Agreement") is made this 16 day of October, 2018 (the "Effective Date"), by and between Eckler's Industries, Inc., a Delaware, USA corporation ("Assignor"), and DAKO Industries, LLC, Titusville, FL 32796 limited liability company (the "Assignee"). Terms used herein and not otherwise defined herein have their respective meanings as set forth in the Asset Purchase Agreement, dated as of October 12, 2018 (the "Asset Purchase Agreement"), by and among Assignor and Assignee.

RECITALS:

WHEREAS, Assignor and Assignee are parties to that certain Asset Purchase Agreement and, pursuant and subject to the Asset Purchase Agreement, Assignor agreed to sell, assign and transfer to Assignee all Intellectual Property that are owned, leased, licensed or possessed by Assignor and used in the operation of the Mercedes MBZ Business;

WHEREAS, the parties now desire to effectuate the assignment and assumption of the Intellectual Property pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of good and valuable consideration paid to the Assignor by the Assignee, receipt of which is hereby acknowledged, Assignor and Assignee hereby agree as follows:

1. Assignment and Assumption. Effective as of the Effective Date, Assignor hereby assigns to Assignee, and Assignee hereby assumes the Intellectual Property. Assignor further hereby represents and warrants that the items listed in Schedule A constitute a full and complete listing of all Intellectual Property currently exclusively owned by Assignor and related to the Mercedes MBZ Business. Assignee, by this Agreement, shall become entitled to all rights, titles, obligations and interests of Assignor in and to the Intellectual Property as if Assignee were the original party thereto or owner thereof.

2. Conflict. This Agreement is made subject to and with the benefit of the representations, warranties and other provisions of the Asset Purchase Agreement. No provision of this Agreement shall be deemed to enlarge, alter or amend the terms or provisions of the Asset Purchase Agreement or constitute a waiver or release by any party of any liabilities imposed on another party by the terms of the Asset Purchase Agreement, including, without limitation, the representations and warranties contained therein, which shall not merge into but shall survive this Agreement and continue in full force and effect for the applicable periods in the Asset Purchase Agreement. Notwithstanding anything to the contrary set forth herein, if there is any conflict between the terms and conditions of this Agreement and the terms and conditions of the Asset Purchase Agreement, the terms and conditions of the Asset Purchase Agreement shall control.

3. Additional Documents. Assignor shall execute and/or obtain such further documents, including without limitation any consents, waivers or assignments, and perform such

further acts, as may be reasonably necessary to transfer and convey the Intellectual Property to Assignee, pursuant to the terms contained in the Asset Purchase Agreement, and to otherwise comply with the terms of this Agreement and consummate the transactions contemplated hereby.

4. Waiver: Modification. Waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party. This Agreement may not be modified, altered, amended, or otherwise changed except by a written instrument executed by each of the parties.

5. Notices. All notices made pursuant to this Agreement shall be in writing and shall be sufficiently served when delivered personally to the party to be notified or sent by certified mail to the last known address, as determined by using due diligence, of the party to be notified.

6. Assignment. This Agreement shall be binding upon, and inure to the benefit of, the parties and their respective successors and permitted assigns. Neither this Agreement nor any rights or obligations hereunder shall be assignable without the prior written consent of the other party; provided, however, that Assignee may assign its rights, without consent, (i) as security to any lender providing financing to Assignee, (ii) to an Affiliate (as defined in the Asset Purchase Agreement) of Assignee, and/or (iii) in connection with a sale of all or substantially all of the business of Assignee and/or its Affiliates.

7. Section Headings. Section headings have been inserted in this Agreement for convenience of reference only. If there is any conflict between such headings and the text of this Agreement, the text shall control.

8. Severability. In the event that any provision of this Agreement is declared to be illegal or invalid, only such provision shall be affected. This Agreement shall then be construed and enforced as if such provision had not been contained herein, and all other provisions not directly dependent thereon shall remain in full force and effect.

9. Applicable Law. This Agreement shall be construed in accordance with the internal laws of the State of Delaware without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

10. Counterparts. This Agreement may be executed in counterparts (delivery of which may occur by facsimile or electronic mail), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

[Signature Page Follows]

IN WITNESS WHEREOF, the undersigned have executed this Assignment of Intellectual Property as of the date first above written.

ASSIGNOR:

Eckler's Industries, Inc.

By: 

Name: Brian Grant

Title: CEO

ASSIGNEE:

DAKO Industries, LLC.

By: 

Name: Thomas A. Holodak

Title: *President*

220318685

RECORDED: 06/28/2019


TRADEMARK
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