

12-26-2000

12 '8 '00



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RECORDATION FORM COVER SHEET TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
Document ID #
- Correction of PTO Error
Reel # Frame #
- Corrective Document
Reel # Frame #

Conveyance Type

- Assignment License
 - Security Agreement Nunc Pro Tunc Assignment
 - Merger Change of Name
 - Other
- Effective Date
Month Day Year

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

- Individual General Partnership Limited Partnership Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKATA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

- Individual General Partnership Limited Partnership Corporation Association
 - Citizenship/State of Incorporation/Organization
- If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

FOR OFFICE USE ONLY

12/22/2000 MTHAI1 00000173 1275024

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Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

REEL: 002198 FRAME: 0826

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1275024"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

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. Charges to deposit account are authorized, as indicated herein.

RONALD MESSEN, PRESIDENT

Ronald Messen

NOVEMBER 2, 2000

Name of Person Signing

Signature

Date Signed

AGREEMENT AND ASSIGNMENT OF TRADEMARKS

THIS AGREEMENT is made as of the 2nd day of November, 2000 between Condensing Heat Exchanger Corp., a New York Corporation ("Assignor") and Power Equipment Systems, Inc., a New York Corporation ("Assignee") with reference to the following facts:

A. Assignor is the owner of the "CHX" trademark described on Exhibit "A", Registration No. 1275024, registered on April 24, 1984, attached hereto (the "Trademark");

B. Contemporaneously herewith Licensor and Licensee are parties to an Asset Purchase and Sale Agreement of even date herewith (the "Asset Purchase and Sale Agreement") pursuant to which Assignor is selling and transferring to Assignee certain assets of Assignor used in connection with the manufacture of heat exchangers (the "Products") which are identified by the Trademark; and

C. Assignor wishes to assign the Trademark to Assignee and Assignee wishes to accept such assignment.

THEREFORE, the parties agree as follows:

1. *Assignment.* In consideration for the obligations undertaken by Assignee under the Asset Purchase and Sale Agreement, Assignor hereby assigns and transfers to Assignee all of Assignor's right, title and interest in and to the Trademark, the Registration (hereinafter described), and all goodwill annexed to the Trademark.

2. *Representations and Warranties of Assignor.* Assignor represents and warrants to Assignee as follows:

a. Exhibit "A" sets forth (i) a true and accurate identification of each registered and unregistered trademark, service mark, trade name and slogan, and each registration and application for any of the foregoing (collectively, the "Registrations");

b. Assignor is the owner of all right, title and interest in and to each item of the Trademark and Registrations, free and clear of all liens and encumbrances;

c. There have not been any claims, actions or judicial or other adversary proceedings involving the Assignor concerning the Trademark or Registrations and to the best knowledge of Assignor, no such action or proceeding is threatened;

d. Assignor has the exclusive right and authority to use the Trademark in connection with the manufacture, sale and advertising of the Products, and such use did not and will not conflict with, infringe upon, or violate any patent or other proprietary right of any other person;

e. There are no licenses or rights currently in effect in favor of any third party to use the Trademark; and

f. All Registrations were properly issued by the relevant authorities and there is no pending or threatened claim, action, suit, investigation or proceeding of any kind challenging, alleging or asserting that any Registration was improperly or invalidly granted or is otherwise invalid.

3. *Assignments.* Pursuant to and in compliance with the Asset Purchase and Sale Agreement, the undersigned Assignor, for the good and valuable consideration set forth in the Asset Purchase and Sale Agreement, the receipt and sufficiency of which are hereby acknowledged, does hereby assign and convey Assignee all right, title and interest of the Assignor, in and to the trademark, service mark, logotype and trade name "CHX" with respect to any and all goods and services and in all classes, any and all similar and related trademarks, service marks, logotypes and trade names, including, without limitation, any trademarks or service marks using the initials "CHX" as part thereof, any and all copyrights in and to the logotypes and designs relating to any of the foregoing, together with all goodwill associated with all of the foregoing. Assignee shall hereby be permitted to register the Trademark in its own name and to freely assign and license the rights to use said Trademark. Each of the parties shall execute such further documents and other papers and perform such further acts as may be reasonably required or desirable to carry out such Assignment and Registration.

4. *Miscellaneous.*

a. This Agreement and the Asset Purchase and Sale Agreement (including the exhibits hereto and thereto) and the agreements, documents and instruments to be executed and delivered pursuant hereto or thereto are intended to embody the final, complete and exclusive agreement among the parties with respect to the Trademark.

b. This Agreement is to be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed wholly within such State, and without regard to the conflicts of laws principals thereof. Any suit brought hereon, whether in contract, tort, equity or otherwise, shall be brought in the state courts sitting in Saratoga County, New York, or the federal courts sitting in Albany, New York, the parties hereto hereby waiving any claim or defense that such forum is not convenient or proper. Each party hereby agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner specified by law.

INTENDING TO BE LEGALLY BOUND, the parties hereto have duly executed this Agreement as of the day and year first above written.

ASSIGNOR:

ASSIGNEE:

Condensing Heat Exchanger Corp.

Power Equipment Systems, Inc.

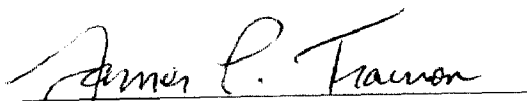
By: Donald F. Warner
Donald F. Warner, President

By: Ronald Messen
Ronald Messen, President

(Acknowledgments appear on a separate page, attached hereto and made a part hereof.)

STATE OF NEW YORK }
COUNTY OF SARATOGA }ss.:


On this 2^d day of ~~October~~ ^{November}, 2000, before me personally came DONALD F. WARNER, to me known, who, being by me duly sworn, did depose and say that he resides in Hamilton County, that he is the President of Condensing Heat Exchanger Corp., the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.


Notary Public

JAMES P. TRAINOR
Notary Public, State of New York
Qualified in Saratoga County
No. 02TR4980978
Commission Expires 4/29/01

STATE OF NEW YORK }
COUNTY OF SARATOGA }ss.:

On this 2^d day of ~~October~~ ^{November}, 2000, before me personally came RONALD MESSEN, to me known, who, being by me duly sworn, did depose and say that he resides in Saratoga County, that he is the President of Power Equipment Systems, Inc., the corporation described in and which executed the above instrument; and that he signed his name thereto by authority of the board of directors of said corporation.


Notary Public

JAMES P. TRAINOR
Notary Public, State of New York
Qualified in Saratoga County
No. 02TR4980978
Commission Expires 4/29/01

Int. Cl.: 11

Prior U.S. Cl.: 34

United States Patent and Trademark Office

Reg. No. 1,275,024

Registered Apr. 24, 1984

**TRADEMARK
Principal Register**

CHX

**Condensing Heat Exchanger Corporation (New York
corporation)
678 Troy-Schenectady Rd.
Latham, N.Y. 12110**

**For: HEAT EXCHANGERS FOR USE WITH
COMMERCIAL AND INDUSTRIAL BOILERS
AND FURNACES OF BUILDING STRUC-
TURES, in CLASS 11 (U.S. Cl. 34).**

First use Jul. 12, 1982; in commerce Jul. 12, 1982.

Ser. No. 412,040, filed Feb. 3, 1983.

NANCY L. HANKIN, Examining Attorney

N^o 1275024

THE UNITED STATES OF AMERICA

CERTIFICATE OF REGISTRATION

This is to certify that the records of the Patent and Trademark Office show that an application was filed in said Office for registration of the Mark shown herein, a copy of said Mark and pertinent data from the Application being annexed hereto and made a part hereof,

And there having been due compliance with the requirements of the law and with the regulations prescribed by the Commissioner of Patents and Trademarks,

Upon examination, it appeared that the applicant was entitled to have said Mark registered under the Trademark Act of 1946, and the said Mark has been duly registered this day in the Patent and Trademark Office on the

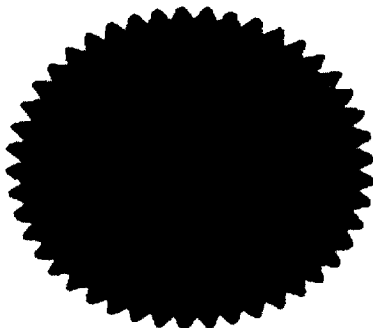
PRINCIPAL REGISTER

to the registrant named herein.

This registration shall remain in force for Twenty Years unless sooner terminated as provided by law.

In Testimony Whereof I have hereunto set my hand and caused the seal of the Patent and Trademark Office to be affixed this twenty-fourth day of April, 1984.

COMMISSIONER OF PATENTS AND TRADEMARKS



AGREEMENT AND ASSIGNMENT OF TRADEMARKS

THIS AGREEMENT is made as of the 2nd day of November, 2000 between Condensing Heat Exchanger Corp., a New York Corporation ("Assignor") and Power Equipment Systems, Inc., a New York Corporation ("Assignee") with reference to the following facts:

A. Assignor is the owner of the "CHX" trademark described on Exhibit "A", Registration No. 1275024, registered on April 24, 1984, attached hereto (the "Trademark");

B. Contemporaneously herewith Licensor and Licensee are parties to an Asset Purchase and Sale Agreement of even date herewith (the "Asset Purchase and Sale Agreement") pursuant to which Assignor is selling and transferring to Assignee certain assets of Assignor used in connection with the manufacture of heat exchangers (the "Products") which are identified by the Trademark; and

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THEREFORE, the parties agree as follows:

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2. *Representations and Warranties of Assignor.* Assignor represents and warrants to Assignee as follows:

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b. Assignor is the owner of all right, title and interest in and to each item of the Trademark and Registrations, free and clear of all liens and encumbrances;

c. There have not been any claims, actions or judicial or other adversary proceedings involving the Assignor concerning the Trademark or Registrations and to the best knowledge of Assignor, no such action or proceeding is threatened;

d. Assignor has the exclusive right and authority to use the Trademark in connection with the manufacture, sale and advertising of the Products, and such use did not and will not conflict with, infringe upon, or violate any patent or other proprietary right of any other person;

e. There are no licenses or rights currently in effect in favor of any third party to use the Trademark; and

f. All Registrations were properly issued by the relevant authorities and there is no pending or threatened claim, action, suit, investigation or proceeding of any kind challenging, alleging or asserting that any Registration was improperly or invalidly granted or is otherwise invalid.

3. *Assignments.* Pursuant to and in compliance with the Asset Purchase and Sale Agreement, the undersigned Assignor, for the good and valuable consideration set forth in the Asset Purchase and Sale Agreement, the receipt and sufficiency of which are hereby acknowledged, does hereby assign and convey Assignee all right, title and interest of the Assignor, in and to the trademark, service mark, logotype and trade name "CHX" with respect to any and all goods and services and in all classes, any and all similar and related trademarks, service marks, logotypes and trade names, including, without limitation, any trademarks or service marks using the initials "CHX" as part thereof, any and all copyrights in and to the logotypes and designs relating to any of the foregoing, together with all goodwill associated with all of the foregoing. Assignee shall hereby be permitted to register the Trademark in its own name and to freely assign and license the rights to use said Trademark. Each of the parties shall execute such further documents and other papers and perform such further acts as may be reasonably required or desirable to carry out such Assignment and Registration.

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ASSIGNEE:

Condensing Heat Exchanger Corp.

Power Equipment Systems, Inc.

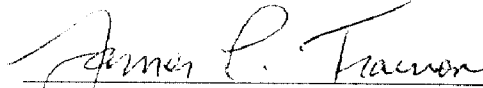
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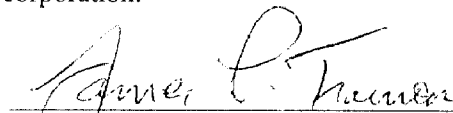


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PRINCIPAL REGISTER

to the registrant named herein.

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