

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
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NATURE OF CONVEYANCE:	Patent, Trademark and License Mortgage
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CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Essex Crane Rental Corp.		09/22/2004	CORPORATION: DELAWARE

RECEIVING PARTY DATA	
Name:	Congress Financial Corporation (Central), as Agent
Street Address:	150 South Wacker Drive
Internal Address:	Suite 2200
City:	Chicago
State/Country:	ILLINOIS
Postal Code:	60606
Entity Type:	CORPORATION:

PROPERTY NUMBERS Total: 2		
Property Type	Number	Word Mark
Registration Number:	2771050	ESSEX CRANE RENTAL CORP
Registration Number:	2771048	ESSEX CRANE RENTAL CORP

CORRESPONDENCE DATA	
Fax Number:	(312)863-7812
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	3128637190
Email:	nathaniel.panek@goldberghohn.com
Correspondent Name:	Nathaniel Panek
Address Line 1:	55 East Monroe Street
Address Line 2:	Ste. 3700
Address Line 4:	Chicago, ILLINOIS 60603

ATTORNEY DOCKET NUMBER:	2563.147
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NAME OF SUBMITTER:	Nathaniel Panek
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Total Attachments: 12  
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## PATENT, TRADEMARK AND LICENSE MORTGAGE

THIS PATENT, TRADEMARK AND LICENSE MORTGAGE (the "Mortgage") made as of this 22nd day of September, 2004, by ESSEX CRANE RENTAL CORP., a Delaware corporation, with its principal business and chief executive office at 1110 Lake Cook Road, Suite 220, Buffalo Grove, Illinois 60089 ("Mortgagor") in favor of Congress Financial Corporation (Central), with an office at 150 South Wacker Drive, Suite 2200, Chicago, Illinois 60606, in its capacity as agent for Lenders, as set forth below ("Mortgagee"):

### W I T N E S S E T H

WHEREAS, Mortgagor, Lenders, Mortgagee and Essex Holdings, LLC, an affiliate of Mortgagor, are parties to a certain Loan and Security Agreement of even date herewith, as amended and supplemented (the "Loan Agreement"), and the other Financing Agreements (as defined in the Loan Agreement), which Financing Agreements provide (i) for Mortgagee and Lenders to, from time to time, extend credit to or for the account of Mortgagor and (ii) for the grant by Mortgagor to Mortgagee for itself and the ratable benefit of Lenders, of a security interest in certain of Mortgagor's assets, including, without limitation, its patents, patent applications, trademarks, trademark applications, trade names, service marks, service mark applications, goodwill and licenses;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Mortgagor agrees as follows:

1. Incorporation of Financing Agreements. The Financing Agreements (including any amendment or other modification thereto) and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. All terms capitalized but not otherwise defined herein shall have the same meanings herein as in the Financing Agreements.

2. Mortgage of Patents, Trademarks and Licenses. To secure the complete and timely satisfaction of all of Mortgagor's Obligations, Mortgagor hereby grants, bargains, assigns, mortgages, pledges, sells, creates a security interest in, transfers and conveys to Mortgagee for itself and the ratable benefit of Lenders, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale upon the occurrence of an Event of Default, to the extent permitted by law, in all of Mortgagor's right, title and interest in and to all of its now existing and hereafter created or acquired:

(i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents listed on Exhibit A attached hereto and hereby made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, damages and payments now and hereafter due or payable under or with respect thereto, including, without

limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (a)-(d) of this subsection 2(i), are sometimes hereinafter referred to individually as a "Patent" and, collectively, as the "Patents");

(ii) trademarks, trademark registrations, trademark applications, trade names and tradedress, service marks, service mark registrations, service mark applications and brand names, including, without limitation, the trademarks, trade names, service marks and applications and registrations thereof listed on Exhibit B attached hereto and hereby made a part hereof, and (a) renewals or extensions, thereof, (b) all income, damages and payments now and hereafter due or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing trademarks, trade names, service marks and applications and registrations thereof, together with the items described in clauses (a)-(d) of this subsection 2(ii), are sometimes hereinafter referred individually as a "Trademark" and, collectively, as the "Trademarks");

(iii) license agreements (to the extent such license agreements may be assigned without violating the terms of any such license agreement) with respect to any of the Patents or the Trademarks or any other patent, trademark, service mark or any application or registration thereof or any other trade name or tradedress between Mortgagor and any other party, whether Mortgagor is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on Exhibit C attached hereto and hereby made a part hereof (all of the foregoing license agreements and Mortgagor's rights thereunder are referred to collectively as the "Licenses"); and

(iv) the goodwill of Mortgagor's business connected with and symbolized by the Trademarks.

3. Warranties and Representations. Mortgagor warrants and represents to Mortgagee that:

(i) no Patent, Trademark or License has been adjudged invalid or unenforceable nor has any such Patent, Trademark or, to the best of Mortgagor's knowledge, License been cancelled, in whole or in part and each such Patent, Trademark and License is presently subsisting;

(ii) each Patent, Trademark and License is valid and enforceable;

(iii) Mortgagor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each Patent, Trademark and License, free and clear of any liens, charges and encumbrances, including without limitation licenses, shop rights and covenants by Mortgagor not to sue third persons, except for any lien or security interest permitted pursuant to Section 9.8 of the Loan Agreement;

(iv) Mortgagor has adopted, used and is currently using all of the Trademarks;

(v) Mortgagor has no notice of any suits or actions commenced or threatened with reference to the Patents, Trademarks or Licenses; and

(vi) Mortgagor has the unqualified right to execute and deliver this Mortgage and perform its terms.

4. Covenants.

(a) Mortgagor shall:

(i) use best efforts so as not to permit the inclusion in any contract to which it hereafter becomes a party of any provision that prevents or prohibits the creation of a security interest in, or the assignment of, Mortgagor's rights and interests in any Patent, Trademark or License acquired under such contracts, provided that such best efforts shall not involve the payment of any money;

(ii) take any and all reasonable steps to protect the secrecy of all trade secrets that Mortgagor deems material to its business relating to the products and services sold or delivered under or in connection with the Patents, Trademarks or Licenses, including, without limitation, where appropriate, entering into confidentiality agreements with employees and labeling and restricting access to secret information and documents; and

(iii) use proper statutory notice in connection with its use of any of the Patents, Trademarks or Licenses and products and services covered by the Patents, Trademarks or Licenses that are material to Mortgagor's business.

(b) Except as otherwise provided in this Section 4, Mortgagor shall continue to collect, at its own expense, all amounts due or to become due to such Mortgagor in respect of the Patents, Trademarks or Licenses or any portion thereof. In connection with such collections, Mortgagor may take and, after the occurrence and during the continuance of any Event of Default, at Mortgagee's reasonable direction, shall take such action as Mortgagor or Mortgagee may deem reasonably necessary or advisable to enforce collection of such amounts; provided that, Mortgagee shall have the right at any time,

upon the occurrence and during the continuation of an Event of Default and upon written notice to Mortgagor of its intention to do so, to notify the obligors with respect to any such amounts of the existence of the security interest created hereby and to direct such obligors to make payment of all such amounts directly to Mortgagee, and, upon such notification and at the expense of Mortgagor, to enforce collection of any such amounts and to adjust, settle or compromise the amount or payment thereof, in the same manner and to the same extent as Mortgagor might have done. After receipt by any Mortgagor of the notice from Mortgagee referred to in the proviso to the preceding sentence and upon the occurrence and during the continuance of any Event of Default, (i) all amounts and proceeds (including checks and Instruments) received by Mortgagor in respect of amounts due to Mortgagor in respect of the Patents, Trademarks or Licenses or any portion thereof shall be received in trust for the benefit of Mortgagee hereunder, shall be segregated from other funds of Mortgagor and shall be forthwith paid over or delivered to Mortgagee in the same form as so received (with any necessary endorsement) to be held as cash collateral and applied in accordance with the terms of the Loan Agreement and the Intercreditor Agreement, and (ii) Mortgagor shall not adjust, settle or compromise the amount or payment of any such amount or release wholly or partly any obligor with respect thereto or allow any credit or discount thereon.

5. Restrictions on Future Agreements. Mortgagor agrees that until Mortgagor's Obligations shall have been satisfied in full and the Financing Agreements shall have been terminated, Mortgagor shall not, without the prior written consent of Mortgagee sell or assign its interest in, or grant any license or sublicense under, the Patents, Trademarks or Licenses, and Mortgagor further agrees that it shall not take any action or permit any action to be taken by others subject to its control, including licensees, or fail to take any action which would affect the validity or enforcement of the rights transferred to Mortgagee under this Mortgage, except for any action taken or permitted by Mortgagor to be taken in connection with the Term Loan Agreements.

6. New Patents, Trademarks, and Licenses. Mortgagor represents and warrants that the Patents, Trademarks and Licenses listed on Exhibits A, B and C, respectively, constitute all of the Patents, Trademarks, and Licenses owned by Mortgagor as of the date hereof. If, before Mortgagor's Obligations shall have been satisfied in full or before the Financing Agreements have been terminated, Mortgagor shall (i) become aware of any existing Patents, Trademarks or Licenses of which Mortgagor has not previously informed Mortgagee, (ii) obtain rights to any new patentable inventions, Patents, Trademarks or Licenses, or (iii) become entitled to the benefit of any Patents, Trademarks or Licenses which benefit is not in existence on the date hereof, the provisions of this Mortgage above shall automatically apply thereto and Mortgagor shall give to Mortgagee prompt written notice thereof. Mortgagor hereby authorizes Mortgagee to modify this Mortgage by amending Exhibits A, B and C, as applicable, to include any such Patents, Trademarks and Licenses.

7. Royalties; Terms. The term of the mortgages granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Trademarks and Licenses assigned hereunder, and (ii) the payment in full of Mortgagor's Obligations and the termination of the Financing Agreements. Mortgagor agrees that upon the occurrence of an Event of Default, the use by Mortgagee of all Patents, Trademarks and Licenses, together with any goodwill associated therewith, shall be worldwide, except as limited by their terms, with any goodwill associated therewith, shall be worldwide except as limited by their terms, all to the extent necessary to enable Mortgagee to realize on the Patents, Trademarks, Licenses and goodwill in accordance with this Agreement and to enable any transferee or assignee of the Patents, Trademarks, Licenses and goodwill to enjoy their benefits. Such right shall be granted without any liability for royalties or other related charges from Mortgagee to Mortgagor, and shall inure to the benefit of all successors, assigns and transferees of Mortgagee, whether by voluntary conveyance, operation of law, assignment, transfer, foreclosure, deed in lieu of foreclosure or otherwise.

8. Product Quality. Mortgagor agrees (i) to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with commercially reasonable business practices, and (ii) to provide Mortgagee, upon Mortgagee's request from time to time, with a certificate of an officer of Mortgagor certifying Mortgagor's compliance with the foregoing. Upon the occurrence of an Event of Default, Mortgagor agrees that Mortgagee, or a conservator appointed by Mortgagee, shall have the right to establish such additional product quality controls as Mortgagee, or said conservator, in its reasonable judgment, may deem necessary to assure maintenance of the quality of products sold by Mortgagor under the Trademarks.

9. Release of Mortgage. This Mortgage is made for collateral purposes only. Upon payment in full of Mortgagor's Obligations and termination of the Financing Agreements, Mortgagee shall execute and deliver to Mortgagor all deeds, assignments and other instruments, and shall take such other actions, as may be necessary or proper to re-vest in Mortgagor full title to the Patents, Trademarks and Licenses, subject to any disposition thereof which may have been made by Mortgagee pursuant to the Financing Agreements.

10. Expenses. All expenses incurred in connection with the performance of any of the agreements set forth herein shall be borne by Mortgagor. All fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Mortgagee and Lenders in connection with the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise in protecting, maintaining or preserving the Patents, Trademarks and Licenses, or in defending or prosecuting any actions or proceedings arising out of or related to the Patents, Trademarks and Licenses, shall be borne by and paid by Mortgagor and shall be charged against the Obligations.

11. Duties of Mortgagor. Mortgagor shall have the duty (i) to file and prosecute, file and/or make diligently any patent, trademark or service mark applications

pending as of the date hereof or hereafter until Mortgagor's Obligations shall have been paid in full and the Financing Agreements have been terminated, (ii) to make application on unpatented but patentable inventions and on trademarks and service marks, as commercially reasonable, (iii) to preserve and maintain all rights in the Patents, Trademarks and Licenses, as commercially reasonable and (iv) to ensure that the Patents, Trademarks and Licenses are and remain enforceable, as commercially reasonable. Any expenses incurred in connection with Mortgagor's obligations under this Section 10 shall be borne by Mortgagor. Subject to the foregoing, Mortgagor shall give Mortgagee prior written notice of any abandonment of any Patent, Trademark or License.

12. Mortgagee's Right to Sue. After an Event of Default, Mortgagee shall have the right, but shall in no way be obligated, to bring suit in its own name, on behalf of itself and Lenders to enforce the Patents, Trademarks and Licenses, and, if Mortgagee shall commence any such suit, Mortgagor shall, at the request of Mortgagee, do any and all lawful acts and execute any and all proper documents required by Mortgagee in aid of such enforcement and Mortgagor shall promptly, upon demand, reimburse and indemnify Mortgagee for all costs and expenses incurred by Mortgagee in the exercise of its rights under this Section 11.

13. Waivers. No course of dealing between Mortgagor and Mortgagee, nor any failure to exercise, nor any delay in exercising, on the part of Mortgagee, any right, power or privilege hereunder or under the Financing Agreements shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

14. Severability. The provisions of this Mortgage are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Mortgage in any jurisdiction.

15. Modification. This Mortgage cannot be altered, amended or modified in any way, except as specifically provided in Section 5 hereof or by a writing signed by the parties hereto.

16. Cumulative Remedies; Power of Attorney; Effect on Financing Agreements. All of Mortgagee's rights and remedies with respect to the Patents, Trademarks and Licenses, whether established hereby or by the Financing Agreements, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Mortgagor hereby authorizes Mortgagee upon the occurrence of an Event of Default, to make, constitute and appoint any officer or agent of Mortgagee as Mortgagee may select, in its sole discretion, as Mortgagor's true and lawful attorney-in-fact, with power to (i) endorse Mortgagor's name on all applications, documents, papers and instruments necessary or



desirable for Mortgagee in the use of the Patents, Trademarks and Licenses, or (ii) take any other actions with respect to the Patents, Trademarks and Licenses as Mortgagee deems to be in the best interest of Mortgagee, or (iii) grant or issue any exclusive or non-exclusive license under the Patents, Trademarks or Licenses to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Patents, Trademarks or Licenses to anyone. Mortgagor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until Mortgagor's Obligations shall have been paid in full and the Financing Agreements, have been terminated. Mortgagor acknowledges and agrees that this Mortgage is not intended to limit or restrict in any way the rights and remedies of Mortgagee or any Lender under the Financing Agreements but rather is intended to facilitate the exercise of such rights and remedies. Mortgagee and Lenders shall have, in addition to all other rights and remedies given it by the terms of this Mortgage and the Financing Agreements, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in Illinois.

17. Binding Effect; Benefits. This Mortgage shall be binding upon Mortgagor and its respective successors and assigns, and shall inure to the benefit of Mortgagee, its successors, nominees and assigns.

18. Governing Law. This Mortgage shall be governed by and construed in accordance with the laws of the State of Illinois.

19. Headings. Paragraph headings used herein are for convenience only and shall not modify the provisions which they precede.

20. Further Assurances. Mortgagor agrees to execute and deliver such further agreements, instruments and documents, and to perform such further acts, as Mortgagee shall reasonably request from time to time in order to carry out the purpose of this Mortgage and agreements set forth herein.

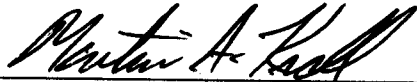
21. Survival of Representations. All representations and warranties of Mortgagor contained in this Mortgage shall survive the execution and delivery of this Mortgage and shall be remade on the date of each borrowing under the Financing Agreements.

22. Intercreditor Agreement. The rights and obligations of Mortgagee and Lenders under this Mortgage are subject in all respects to the terms and conditions of the Term B Intercreditor Agreement. In the event of any conflict between the provisions of the Term B Intercreditor Agreement and the provisions of this Mortgage, the provisions of the Term B Intercreditor Agreement shall govern.

**[Remainder of page intentionally left blank.]**

IN WITNESS WHEREOF, Mortgagor has duly executed this Mortgage in favor of Congress Financial Corporation (Central), in its capacity as agent for Lenders, as of the date first written above.

ESSEX CRANE RENTAL CORP.

By   
Its Senior Vice President & CFO

STATE OF \_\_\_\_\_ )  
 )SS.  
COUNTY OF \_\_\_\_\_ )

The foregoing Patent, Trademark and License Mortgage was executed and acknowledged before me this 20<sup>th</sup> day of September 2004, by Martin J. Kull personally known to me to be the SVP & CEO of Essex Crane Rental Corp., a Delaware corporation, on behalf of such corporation.



Elizabeth Cajigas  
Notary Public

My Commission Expires:

June 29, 2005

THIS INSTRUMENT PREPARED BY  
AND AFTER FILING RETURN TO:

Jonathon J.H. Kim, Esq.  
Goldberg, Kohn, Bell, Black,  
Rosenbloom & Moritz, Ltd.  
55 East Monroe Street  
Suite 3700  
Chicago, Illinois 60603  
(312) 201-4000

**EXHIBIT A**

**PATENTS**

**UNITED STATES PATENTS AND APPLICATIONS**

None.

**FOREIGN PATENTS AND APPLICATIONS**

None.

**EXHIBIT B**

**TRADEMARKS**

**UNITED STATES TRADEMARKS AND APPLICATIONS**

**Trademarks**

<b>Mark</b>	<b>Registration No.</b>	<b>Date</b>
Essex Crane Rental Corp	2771050	10/7/03
Essex Crane Rental Corp	2771048	10/7/03

**Tradenames**

1. Essex Crane Holdings, Inc.
2. Essex Crane Rental Corp.

**Trademark Applications**

None.

**FOREIGN TRADEMARKS AND APPLICATIONS**

None.

**EXHIBIT C**

**LICENSE AGREEMENTS**

**None.**