

07-02-2003

6-27-03



102486886
DOCUMENT ID NO. 102347544

Box Assignments

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Express Mail No. _____

Certified Mail

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

1. Name of conveying party(ies):

BTC Acquisition Corporation
66 Victoria Street
Keene, NH 03431

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

2. Name and address of receiving party(ies):

Name: Rees H. Acheson
251 Camp Brook Road
Alstead, NH 03602

AND

Hawkindale, Inc.
251 Camp Brook Road
Alstead, NH 03602

Additional name(s) & address(es) attached? Yes No

3. Nature of Conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Collateral Assignment of Intellectual Property

Execution Date: November 18, 2002

4. Application number(s) or patent number(s):
If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s) _____
B. Patent No.(s)

4,687,899	4,873,419	4,892,990
4,952,769	5,298,710	5,558,268

Additional numbers attached? Yes No

OFFICE OF RECORDS
JUN 27 AM 9:04
FINANCE SECTION

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

Bourque & Associates, P.A.
835 Hanover Street, Suite 301
Manchester, NH 03104

WHITE-02001
07/01/2003 ECDPER 00000172 4687899
01 FC:8021 240.00 OP

6. Total number of applications and patents involved:

7. Total fee (37 CFR 3.41): \$ 240.00
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:
02-3285
(Attach duplicate copy of this page if paying by deposit account)

9. Statement and signature.
To the best of my knowledge and belief, the foregoing is true and correct and any attached copy is a true copy of the original document.

Daniel J. Bourque, Esquire
Name of Attorney of Record
Attorney Registration No. 35,457

Signature:
Date: 6-27-03

Total number of pages including cover sheet, attachments and document: [16]

COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY

COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY dated as of November 18, 2002, made by BTC Acquisition Corporation (to be known as Bortech Corporation), a New Hampshire corporation, with a principal place of business at 66 Victoria Street, Keene, New Hampshire 03431 ("Assignor") in favor of Rees H. Acheson of 251 Camp Brook Road, Alstead, New Hampshire 03602 and Hawkindale, Inc., a New Hampshire corporation, with a place of business at 251 Camp Brook Road, Alstead, New Hampshire 03602; (hereinafter collectively the "Holder").

W I T N E S S E T H

WHEREAS, Assignor and the Holder are parties to certain Promissory Notes, dated as of November 18, 2002 (the "Notes") in the original aggregate principal amount of Six Hundred Thousand Dollars (\$600,000.00);

WHEREAS, pursuant to the Notes, the Holder has agreed to make a loan to Assignor upon the terms and subject to the conditions set forth in the Loan and Security Agreement dated as of November 18, 2002 ("Loan and Security Agreement");

WHEREAS, it is a condition to the obligation of the Holder to make the loan to Assignor under the Notes, that Assignor shall have executed and delivered this Collateral Assignment of Intellectual Property to the Holder;

NOW, THEREFORE, in consideration of the mutual promises, covenants and agreements herein contained and to induce Holder to enter into the Notes and to make the loan to Assignor, Assignor hereby agrees with the Holder as follows:

1. Defined Terms.

1.1 Definitions.

For the purposes of this Agreement:

(a) Unless otherwise defined herein, terms defined in the Notes and used herein shall have the meanings given to them in the Notes.

(b) The following terms shall have the following meanings:

"Agreement" means this Collateral Assignment of Intellectual Property as the same may be amended, supplemented or otherwise modified from time to time.

“Code” means the Uniform Commercial Code as from time to time in effect in the State of New Hampshire.

“Collateral” is defined in Section 2.

“Intellectual Property” means, collectively, all rights, priorities and privileges relating to intellectual property, whether arising under United States, multinational or foreign laws or other laws including, without limitation, proprietary information, trade secrets, know-how, “shop knowledge”, inventions, copyrights, trademarks and service marks (and the goodwill associated therewith), business and trade names, passwords, computer software, files, databases, and supporting documentation, Internet domain names and World Wide Web pages, Patents, the Patent Licenses presently existing or from time to time developed, created or invented while Assignor remains indebted to Holder, and all rights to sue at law or in equity for any misappropriation, infringement or impairment thereof, including past infringement, along with the right to receive all proceeds and products therefrom, and any other proprietary rights and intellectual property of any kind or character. Intellectual Property also includes all modifications, enhancements and improvements to Intellectual Property from time to time existing. Schedule 1 lists all Intellectual Property owned or licensed by Assignor as of the date hereof.

“Lien” means any mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance, lien (statutory or other), charge or other security interest or any preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including conditional sale or other title retention agreement and any capitalized lease having substantially the same economic effect as any of the foregoing).

“Obligations” means the collective reference to the unpaid principal, interest fees, and costs due and owing under, and as defined in, the Notes, together with any renewals, extensions or modifications thereof and all other obligations and liabilities of Assignor to the Holder, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereinafter incurred, which may arise under, out of, or in connection with the Notes, the loan documents executed in connection therewith or this Agreement.

“Patents” means (i) all letters patent of the United States, any other country or any political subdivision thereof, including all continuations, continuations-in-part, divisionals, reexaminations, reissues and extension thereof and all goodwill associated therewith, (ii) all applications letters patent of the United States or any other country, including all continuations, continuations-in-part, divisionals, reexaminations, reissues and extensions thereof and (iii) all rights to obtain any continuations, continuations-in-part, divisionals, reexaminations, reissues or extensions of the foregoing.

“Patent License” means all agreements, whether written or oral, providing for the grant by or to Assignor of any right to manufacture, use and or sell any invention covered in whole or in part by a Patent.

“Permitted Encumbrances” are listed in Schedule 2.

1.2 Other Definitional Provisions.

(a) The words “hereof” “hereto” and “hereunder” and words of similar import when used in this Collateral Assignment shall refer to this Agreement as a whole and not to any particular provision of this Agreement, and Section, subsection and Schedule references are to this Agreement unless otherwise specified.

(b) The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.

2. Grant of Security Interest. As collateral security for the satisfaction and complete payment and performance when due (whether at the stated maturity by acceleration or otherwise) of the Obligations, Assignor hereby does GRANT, ASSIGN, TRANSFER AND SET OVER unto the Holder the entirety of the Assignor's rights, title and interest in and to and a security interest in any and all of the following property now owned or any time hereafter acquired by Assignor or in which Assignor now or any time in the future may acquire any right, title or interest (collectively the “Collateral”):

(a) all Intellectual Property;

(b) all books and records pertaining to the Intellectual Property; and

(c) to the extent not otherwise included, all proceeds and products of any and all of the foregoing and all collateral security and guarantees given by an person with respect to any of the foregoing.

3. Assignor's Rights Prior to Default.

So long as there shall exist no default by Assignor hereunder and no default as defined herein or in the Loan Agreement, the Notes or any other loan documents executed herewith or therewith, Holder hereby licenses the Collateral to Assignor. In connection with said license, Assignor shall have all the obligations and duties set forth herein with respect to the Collateral including, but not limited to, the duty to register, maintain and enforce rights with respect to the Collateral all at Assignor's sole expense as set forth in Section 5.

4. Representations and Warranties. Assignor hereby represents and warrants that:

4.1 Title; No Other Liens. Except for the security interest granted to the Holder pursuant to this Agreement, and other than as set forth on Schedule 2, Assignor owns each item of the Collateral free and clear of any and all Liens or claims or others other than Permitted Encumbrances. Other than as set forth on Schedule 2, no financing statement or other public

notice with respect to all or any part of the Collateral is on file or of record in public office, except such as have been filed in favor of the Holder pursuant to this Agreement.

4.2 Perfected First Priority Liens. The security interests granted pursuant to this Agreement (a) upon completion of the filings specified on Schedule 3 will constitute perfected security interests in the Collateral in favor of the Holder, as collateral security for the Obligations and (b) other than as set forth on Schedule 2 are prior to all other Liens on the Collateral in existence on the date hereof.

4.3 Jurisdiction of Organization; Chief Executive Office. Assignor's jurisdiction of organization is New Hampshire, and its chief executive office or sole place of business is located at Keene, New Hampshire.

4.4 Intellectual Property.

(a) Assignor has sole and exclusive rights with respect to all of the Intellectual Property and is not contractually obligated to pay any compensation to any third party with respect thereto except as set forth in Schedule 4. Assignor has the exclusive right to use, sell, transfer, grant, lease, license, and otherwise dispose of, and the exclusive right to bring actions for infringement of and otherwise exercise all rights pertaining to, the Intellectual Property. Assignor has not agreed to sell, transfer, grant, lease, license, or otherwise dispose of, any Intellectual Property or waived or released any rights of material value related to any of the Intellectual Property.

(b) Assignor neither has nor uses any Intellectual Property in the conduct of its business other than the Intellectual Property listed in the attached Schedule 1.

(c) To Assignor's knowledge, no claims with respect to any of the Intellectual Property have been asserted against Bortech Corporation or any third party (or, to the best of Assignor's knowledge, have been threatened or are likely to be threatened against any of them) by any Person except as set forth in Schedule 5. In addition, to the best of Assignor's knowledge, no grounds exist for any claim now or in the future challenging the ownership, validity, or effectiveness of any of the Intellectual Property.

(e) Assignor does not know of any fact that would render any of the Intellectual Property invalid. To the best of Assignor's knowledge, there is no unauthorized use, infringement, or misappropriation of any of the Intellectual Property by any third party.

(f) To the best of Assignor's knowledge, the books, records, and working papers of Assignor relating to the Intellectual Property are in all material respects complete and correct and have been maintained in accordance with good business practices.

5. Covenants. Assignor covenants and agrees with the Holder from and after the date of this Agreement until the Obligations shall have been paid in full:

5.1 Maintenance of Perfected Security Interest; Liens; Further Documentation.

(a) Assignor shall maintain the security interest created in this Agreement as a perfected security interest having at least the priority described in subsection 4.2 and shall defend such security interest against claims and demands of all persons whomsoever.

(b) Bortech shall furnish to the Holder as Holder may reasonably request statements and schedules updating and/or further identifying and describing the Collateral, all in reasonable detail.

(c) Bortech will not create, incur, assume or suffer any Lien on the Collateral except as created by this Agreement and the Permitted Encumbrances.

(d) At anytime and from time to time, upon written request the Holder, and at the sole expense of Assignor, Assignor will provide and duly execute and deliver such further instruments and documents and take such further actions as the Holder may reasonably request for the purposes of obtaining or preserving the full benefits of this Agreement and of the rights and powers herein granted, including, without limitation, (i) the filing of financing or continuation statements under the Uniform Commercial Code as enacted in New Hampshire or similar laws with respect to the security interests created hereby; and (ii) the preparation, execution and recording of such documents as are necessary or desirable to maintain the status of Holder's rights under Federal or other applicable law.

5.2 Intellectual Property.

(a) Assignor shall not sell, transfer, grant, lease, license, and otherwise dispose of the Intellectual Property without the prior written consent of Holder, which consent shall not be unreasonably withheld or delayed.

(b) Assignor will not act, or omit to do any act, whereby any Intellectual Property may become forfeited, abandoned or dedicated to the public, or to lose its protected status under applicable law.

(c) Assignor will not do any act that knowingly causes any Intellectual Property to infringe intellectual property rights of any other Person.

(d) Assignor will notify the Holder in writing immediately if it knows or has reason to know, that any application or registration relating to any Intellectual Property may become forfeited, abandoned or dedicated to the public, or of any adverse determination or development (including without limitation, the institution of, or any such determination or development proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any court or tribunal in any country) regarding Assignor's ownership of, or the validity of, any Intellectual Property or Assignor's right to register the same or to own and maintain the Intellectual Property.

(e) Whenever Assignor, either by itself or through any agent, contractor, employee, licensee or designee, shall file an application for the registration of any Intellectual Property with the United States Patent and Trademark Office, the United States Copyright Office or any similar office or agency in a country or any political subdivision thereof, Assignor shall report in writing such filing to the Holder within five (5) Business Days after the last day of the quarter in which such filing occurs. Upon request of the Holder, Assignor shall execute and deliver, and have recorded, any and all agreements, instruments, documents, and papers as the Holder may request to evidence Holders' security interest in any Intellectual Property and the goodwill and general intangibles of Assignor relating thereto or represented thereby.

(f) Assignor will take at Assignor's sole expense all reasonable and necessary steps including, without limitation, in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or any similar or agency in any other country or any political subdivision thereof, to file and pursue each application (and to obtain the relevant registration) and maintain each registration of the Intellectual Property, including without limitation, payment of all annuities and maintenance fees, filing fees, examination fees, filing of applications for renewal, affidavits of understanding, affidavits of incontestability, response to reexamination requests and response to any opposition proceedings.

(g) In the event that any Intellectual Property is infringed, misappropriated or diluted by a third party, Assignor will (i) take such actions at Assignor's sole expense as Assignor shall reasonably deem appropriate under the circumstances to protect such Intellectual Property and (ii) if the infringement, misappropriation or dilution of such Intellectual Property is of economic significance, promptly notify the Holder after it learns of such infringement, misappropriation or dilution and sue for infringement, misappropriation or dilution, to seek injunctive relief where appropriate and to recover any and all damages for such infringement, misappropriation or dilution; promptly notify the Holder of any infringement, misappropriation or dilution of any Intellectual Property in those circumstances where the Assignor considers such to be of no economic significance.

5.3 Notices. Assignor will advise the Holder promptly, in reasonable detail, of:

(a) any Lien (other than security interests created hereby or listed on Schedule 2) on any of the Collateral which would adversely affect the ability of the Holder to exercise any of its remedies hereunder; and

(b) of the occurrence of any other event which could reasonably be expected to have a material adverse effect on the aggregate value of the Collateral or on the security interests created hereby.

6. Default; Indemnification. If Assignor shall breach any provision of this Agreement, or should any warranty or representation contained herein be proven false in any material respect, or should Assignor be in default under the Notes, Loan Agreement, or other loan document executed in connection therewith, the same shall constitute a default hereunder, thereby allowing Holder, without further notice to Assignor, in addition to all other rights

accruing to it, to revoke Assignor's license pursuant to Section 3 and invoke any and all other rights, remedies, and recourses available to Holder. Assignor appoints Holder as its attorney-in-fact to so act, such power to be irrevocable until payment in full of the Obligations, and discharge of all Obligations of Assignor. Assignor hereby acknowledges its understanding that this Agreement creates an assignment of rights only and that the same shall not be construed as imposing any obligation of any nature whatsoever upon Holder to take any action permitted hereinabove.

7. Uniform Commercial Code; Remedies. In addition to its being, but without in any way limiting or impairing its viability as, an assignment of intellectual property, this Agreement shall also constitute a security agreement under the Uniform Commercial Code - Secured Transactions, as enacted in New Hampshire (N.H. R.S.A. 382-A:9-101, et seq.) creating in favor of Holder, until the Notes is fully paid, a first and prior security interest to the Collateral and all products and proceeds thereof. Accordingly, Assignor hereby acknowledges unto Holder that Holder shall have, in addition to any and all rights, remedies and recourses afforded to it herein or under the Notes and Loan Agreement, or any other instrument executed with reference to the Notes, all rights and remedies afforded to secured parties by the aforesaid Uniform Commercial Code - Secured Transactions.

8. Execution of Financing Statements. Pursuant to any applicable law, Assignor authorizes the Holder to file or record financing statements and other filing or recording documents or instruments with respect to Collateral without the signature of Assignor in such form as the Holder determines appropriate to create, perfect or preserve the security interests granted to Holder under this Agreement.

9. Severability. Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

10. Amendments in Writing. None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by written instrument executed by Assignor and the Holder.

11. No Waiver by Course of Conduct; Cumulative Remedies. Holder shall not by any act, delay, indulgence, omission or otherwise be deemed to have waived any rights or remedy hereunder or to have acquiesced in any default. No failure to exercise, nor any delay in exercising, on the part of the Holder, any rights, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder shall preclude any other or further exercise thereof or the exercise of any other right, remedy or privilege. A waiver by the Holder of any right or remedy hereunder on a single occasion shall not be construed as a bar to any right or remedy which Holder would otherwise have on any future occasion. The rights and remedies herein provided are cumulative, may be exercised singly or concurrently and are exclusive of any other rights or remedies provided by law.

12. Enforcement Expenses; Indemnification.

(a) Assignor shall pay or reimburse the Holder for all its costs and expenses incurred in or preserving any rights under this Agreement, including, without limitation the fees and disbursements of counsel to the Holder.

(b) Assignor agrees to pay, and to save the Holder harmless any and all liabilities with respect to, or resulting from any delay in payment of any and all stamp, excise, sales or other taxes which may be payable or determined to be payable with respect to any of the Collateral or in connection with any of the transaction contemplated by this Agreement.

(c) Assignor agrees to pay and to defend (with counsel of Holder's choice), indemnify and hold Holder harmless from and against any and all causes of action, liability, cost, loss or damage which Holder may or might incur in connection with the Collateral or under or by reason of this Agreement, and of and from any and all claims and demands whatsoever which may be asserted against Holder by reason of any alleged obligation or undertaking on Holder's part in connection with the Collateral. Should Holder incur any such liability, loss or damage in connection with the Collateral or under or by reason of this Agreement, or in the defense of any such claim or demands, the amount thereof, including all costs, expenses, and reasonable attorneys' fees, shall be secured hereby and Assignor shall reimburse Holder therefore immediately upon demand.

(d) The agreements in this Section 12 shall survive repayment Obligations and all other amounts payable under the Notes.

13. Notices. All notices, requests and demands to or upon the parties hereunder shall be effected in the manner provided for in the Loan Agreement.

14. Section Headings. The Section and subsection headings used in this Agreement are for convenience of reference only and are not to affect construction hereof or be taken into consideration in the interpretation of the Agreement.

15. Successors and Assigns. This Agreement shall be binding upon the successors and assigns of Assignor and shall inure to the benefit of Holder and its successors and assigns.

16. Governing Law. This Agreement shall be governed by and interpreted in accordance with, the law of the State of New Hampshire.

17. WAIVER OF JURY TRIAL. ASSIGNOR HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES TRIAL BY JURY IN ANY LEGAL ACTION OR PROCEEDING TO THIS AGREEMENT AND FOR ANY COUNTERCLAIM THEREIN.

18. Assistance of Counsel. This Agreement has been negotiated by the parties with the assistance of legal counsel and reflects their mutual agreement on all of its terms and

conditions. Consequently, the maxim that an agreement should be construed against its drafter shall be inapplicable.

19. Defeasance. When all Secured Obligations have been paid and performed in full and no further obligation on the part of the Assignor shall exist, this Collateral Assignment of Intellectual Property shall cease and terminate, and the Collateral furnished hereunder shall immediately and automatically revert to the Assignor and the estate, rights, title, and interest of the Holder therein shall cease, and thereupon on the Assignor's written request, the Holder shall execute proper instruments, acknowledging satisfaction of and discharging this Collateral Assignment of Intellectual Property, and shall redeliver to the Assignor the Collateral furnished hereunder then in its possession.

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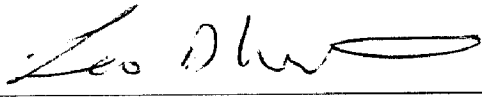
SIGNATURE PAGE FOR
COLLATERAL ASSIGNMENT OF INTELLECTUAL PROPERTY

IN WITNESS WHEREOF, the undersigned has caused this Collateral Assignment to be
duly executed and delivered as of the date first above written.

BTC ACQUISITION CORPORATION



Witness

By: 

Name: Leo D. White
Title: President

Schedule 1
Intellectual property

1. U.S. Patent Number 4,687,899
2. U.S. Patent Number 4,873,419
3. U.S. Patent Number 4,892,990
4. U.S. Patent Number 4,952,769
5. U.S. Patent Number 5,298,710
6. U.S. Patent Number 5,558,268

All intellectual property owned by Assignor that is used or useful in Assignor's business of designing and manufacturing borewelders and providing related testing, welding, operational, and other technical services, including but not limited to: whether registered or unregistered: (i) patents and inventions, (ii) trademarks and servicemarks (and the goodwill associated therewith), (iii) copyrights, (iv) business and trade names, (v) trade secrets and know-how, (vi) computer software, files, databases, and supporting documentation, (vii) Internet domain names and World Wide Web pages, and (viii) any other proprietary rights and intellectual property of any kind or character, whether recognized in the U.S. or any foreign country. Intellectual Property also includes any U.S. and foreign registrations of any of the foregoing and any applications therefor.

Schedule 2
Permitted Encumbrances

Collateral Assignment of Intellectual Property to New Hampshire Community Loan Fund, Inc. of even or near even date herewith, which Collateral Assignment is senior to the assignment contained herein.

Schedule 3
Filings

1. Timely filings of proper UCC-1 Financing Statements in the office of the New Hampshire Secretary of State.
2. Timely filing of this Collateral Assignment of Intellectual Property in the US Patent and Trademark Office.

Schedule 4
Compensation to Third Parties

None

Schedule 5

Claims

Bore Repair Systems, Inc. ("BRS") is a competitor to Borrower's business (the "Business"). To the best of Borrower's knowledge, BRS is owned and operated by Thomas Esslinger or members of his family (Thomas Esslinger or members of his family being referred to herein, collectively or individually, as "Esslinger"). Thomas Esslinger is a former employee and shareholder of Bortech Corporation ("Seller"). Subsequent to the termination of Thomas Esslinger's employment and stock ownership in Seller, Seller, the shareholders of Seller (the "Shareholders"), BRS, and Esslinger engaged in litigation in the Cheshire County Superior Court (the "Esslinger Litigation"). As a result of the Esslinger Litigation, a settlement agreement (the "Esslinger Settlement") was entered into. Notwithstanding the Esslinger Settlement, to Borrower's knowledge, the following are the only claims that still exist between Seller, Esslinger, and BRS:

(i) claims that BRS is obligated to pay royalties to Seller under the Esslinger Settlement (which claims are being assigned to Borrower under the Asset Purchase Agreement and the Intellectual Property Purchase Agreement between Borrower and Rees Acheson of even or near even date herewith (the "IP P&S Agreement");

(ii) claims that Seller has violated the Esslinger Settlement (the "Esslinger Settlement Claims") (which Esslinger Settlement Claims are not being assumed by Borrower);

(iii) claims by Seller and/or Acheson that products of BRS and Esslinger violate patents being sold to Buyer (which claims are being assigned to Buyer under this Agreement and the IP P&S Agreement); and

(iv) claims that Seller's products may violate patents held by Esslinger, other members of his family, or BRS (the "Esslinger Patent Claims") (which Esslinger Patent Claims, to the extent they are related to sales of Seller's products prior to the Closing, are not being assumed by Buyer under this Agreement).

With respect to the Esslinger Patent Claims, Borrower has obtained an independent opinion from his patent counsel that the Esslinger Patent Claims are invalid and/or unenforceable. Seller shall be liable and responsible for any damages awarded against Buyer in connection with adjudicated claims of patent infringement based on the Esslinger Patent Claims for products manufactured or sold by Seller prior to the closing of the transactions contemplated by the Asset Purchase Agreement and the IP Purchase Agreement. Such responsibility of Seller for damages shall only arise if, after Buyer defends such claims with due diligence and in good faith, Buyer is adjudicated as being liable for damages arising from such claims; provided, that the foregoing shall not require Buyer to appeal any such adjudication of liability.