

01-14-2005

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

REC

102921077  
PATENT

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

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

Julia Diann Abbott

Execution Date(s) November 5, 2004

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

3. Nature of conveyance:

- ☒ Assignment ☐ Merger  
☐ Security Agreement ☐ Change of Name  
☐ Government Interest Assignment  
☐ Executive Order 9424, Confirmatory License  
☐ Other \_\_\_\_\_

2. Name and address of receiving party(ies)

Name: The Eleanor G. Taylor Trust

Internal Address: \_\_\_\_\_

Street Address: 5051 63d Street

City: San Diego

State: CA

Country: USA Zip: 92115

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

4. Application or patent number(s):

A. Patent Application No.(s)

10/895,544, filed July 21, 2004

☐ This document is being filed together with a new application.

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

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

Name: Mark W. Handley

Internal Address: \_\_\_\_\_

Street Address: CHAUZA & HANDLEY, LLP  
P.O. Box 140036

City: Irving

State: Texas Zip: 75014-0036

Phone Number: (972) 518-1713

Fax Number: (972) 518-1124

Email Address: mhandley@txip.biz

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h) & 3.41) \$ 40.00

- ☐ Authorized to be charged by credit card  
☒ Authorized to be charged to deposit account  
☐ Enclosed  
☐ None required (government interest not affecting title)

8. Payment Information

a. Credit Card Last 4 Numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number 502112/DABT-27,880US

Authorized User Name Mark W. Handley

9. Signature: [Signature]

Signature

January 6, 2005

Date

Mark W. Handley

Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 9

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

01/14/2005 6TON11 0000067 502112 10695544

01 FC:0021 40.00 DA

PATENT  
REEL: 016147 FRAME: 0282

**ASSIGNMENT AND ROYALTY AGREEMENT**

**ASSIGNMENT AND ROYALTY AGREEMENT** is by and between Julia Diann Abbott, an individual, a resident of Irving, Texas, a citizen of the United States of America, having an address of 1714 Williams Road, Irving, Texas 75060 (hereinafter referred to as Assignor) and The Eleanor G. Taylor Trust, whose trustee is Eleanor G. Taylor, having an address of address of 5051 63d Street San Diego CA 92115 (hereinafter referred to as "Assignee").

WHEREAS, I, Julia Diann Abbott, Assignor, having a forty-nine percent (49 %) ownership of certain new and useful improvements in a "MOTORCYCLE TOWING DOLLY FOR TOW TRUCKS," invented by Larry Bruce Abbott, of Irving, Texas for which a Regular Utility Patent Application having Application Serial No. 10/895,544 filed on July 21, 2004, claiming priority to Provisional Patent Application Serial No. 60/489,656 filed on July 24, 2003, and Assignment therefor to myself in the Amount of sixty percent 60% and to The Eleanor G. Taylor Trust in the Amount of forty percent (40%) was filed on July 21, 2004, and an Assignment from myself to The Eleanor G. Taylor Trust in the Amount of eleven percent (11%) was filed executed on August 2, 2004 and filed on August 17, 2004;

WHEREAS, The Eleanor G. Taylor Trust, Assignee, is desirous of obtaining an exclusive world-wide right to said know-how and to make, use and sell Motorcycle Towing Dollies according to said inventions of the Assigned Property as set forth below, and prior to this Assignment having a fifty-one percent (51%) ownership, and is desirous of acquiring an additional forty-nine percent (49%) interest, resulting in ownership my entire right and interest being Assigned, to thereby have a total of a one hundred percent (100%) ownership of the entire right, title and interest in and to the invention, and in and to said application and any Letters Patent that may issue thereon, in the United States and throughout the World;

NOW, THEREFORE, for and in good and valuable consideration, as set forth herein below, the receipt and sufficiency of which is hereby acknowledged, I, Julia Diann Abbott do hereby sell, assign and transfer unto said Assignee, its successors, assigns and legal representatives a forty-nine percent (49%) interest, which in addition to the previously assigned fifty-one percent (51%) interest, provides Assignee with a total of a one hundred percent (100%) interest in the full and exclusive right, title and interest in and to said invention and in and to said application and all patents which may be granted therefor, in the United States and throughout the World, to all provisional rights arising from pre-issuance publication of said application, and to all divisions, reissues, substitutions, continuations, continuations-in-part and extensions thereof; and I hereby authorize and request the Director of the United States Patent and Trademark Office to issue all patents for said invention, or patents resulting therefrom, insofar as my interest is concerned, to said Assignee of said invention and said application;

I also hereby sell and assign to said Assignee, its successors, assigns and legal representatives a forty-nine percent (49%) interest, which in addition to the previously assigned

fifty-one percent (51%) interest, provides a total to Assignee of a one-hundred percent (100%) interest in the full and exclusive right, title and interest to the invention disclosed in said application throughout the world, including the right to file applications and obtain patents, utility models, industrial models and designs for said invention throughout the world including, all rights of priority, all rights to publish cautionary notices reserving ownership of said invention, and all rights to register said invention in appropriate registries, all foreign rights arising from pre-grant publication of said application; and I further agree to execute any and all powers of attorney, applications, assignments, declarations, affidavits, and any other papers in connection therewith necessary to perfect such right, title and interest in Assignee, its successors, assigns and legal representatives.

I hereby further agree that I will communicate to said Assignee, or to its successors, assigns and legal representatives, any facts known to me respecting any improvements, and, at the expense of said Assignee, to testify in any legal proceedings, sign all lawful papers, execute all divisional, continuation, continuation-in-part, reissue and substitute applications, make all lawful oaths, and generally do everything possible to vest the entire right, title and interest in said invention in said Assignee and to aid said Assignee, its successors, assigns and legal representatives to obtain and enforce proper protection for said invention in all countries.

Assignor and Assignee to also hereby acknowledge the continuation of the Exclusive License granted to Pro Motorcycle Towing and Recovery Equipment, L.L.C., a Delaware Limited Liability Corporation, which has a business address of 5051 63d Street San Diego CA 92115, (hereinafter referred to as "Licensee"), which is dated April 6, 2004 and May 20, 2004 and effective January 1, 2004.

NOW, THEREFORE, in consideration of the mutual agreements, covenants and undertakings set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignor and Assignee, (hereinafter collectively referred to as "The Parties") hereby agree as the Royalty Provisions of this Agreement follows:

1. *Definitions.* As used herein, the following terms shall have the following meanings:

1.1 "Assigned Property" shall mean and include patents issued on applications for Letters Patents for any and all of the inventions shown in Regular Utility Patent Application having Application Serial No. 10/895,544 filed on July 21, 2004, and U.S. Provisional Patent Application No. 60/489,656, filed July 24, 2003, both invented by Larry Bruce Abbott, of the City of Irving, Dallas County, Texas, and any improvements therefor, any know-how relating thereto, and all reissues, continuations, continuations-in-part and divisions thereof; all other patent grants otherwise claiming priority thereunder; and all foreign patents corresponding to or claiming priority under the United States filing of said applications for or issued Letters Patents.

1.2 "Affiliate" of a party shall mean and include any business entity which is owned or controlled, directly or indirectly, by the party or under common ownership by a third party.

1.3 "Included Product" shall mean any product sold or put into use by Assignee or its Affiliate anywhere in the world which is defined by or made using a process defined by any unexpired claim in any Assigned Property which has not been forfeited, disclaimed or declared invalid or unenforceable by an unappealable decision of a court of competent jurisdiction.

1.4 "Effective Date" of this Agreement shall be January 1, 2004, regardless of the date of execution hereof.

1.5 "Net Sales Price" of Included Product shall mean the price invoiced by Assignee or its Affiliate to an unaffiliated purchaser less only freight charges, taxes and credits allowed for returned product. If any Included Product is sold or put into use by Assignee or its Affiliate at a cost to the end user which is less than Fair Market Value, the Net Sales Price shall be the Fair Market Value.

1.6 "Fair Market Value" shall mean the Net Sales Price the manufacturer would realize (assuming a fair and reasonable recovery of costs and a reasonable profit) if the Included Product were sold to an unaffiliated end use buyer in an arm's length sale in the same country and in similar quantities contemporaneously with the relevant transaction. Absent convincing evidence to the contrary, the manufacturer's published list price shall be considered Fair Market Value. Discounts allowed to distributors, dealers, etc., shall not be used to reduce Fair Market Value.

1.7 "Sold" shall mean when an Included Product is shipped or invoiced, whichever occurs first, to the Assignee's customer, excluding sales to affiliates of the Assignee.

## *2. Term.*

2.1 The Royalty Provisions of this Agreement shall remain in effect until the of the last to expire of any patent or patent application included as part of the Assigned Property.

2.2 If Assignee shall at any time make default in the payment of any royalty, any Royalties as may be required under this Agreement, or the making of any report hereunder, or shall commit any breach of any covenant or agreement herein contained, or shall make any false report, and shall fail to remedy any such default or breach within sixty (60) days after receipt of written notice thereof by Assignor, Assignor may, at its option, seek to enforce this Royalty Provisions of this Agreement in the Courts of the State of Texas.

3. *Royalty.* As consideration for the Agreement, Assignee shall pay to Assignor five percent (5%) of the Net Sales price of any Included Product defined by or made using a process defined by an unexpired claim of any patents of patent applications of the Assigned Property.

4. *Interest.* Assignee shall pay interest to Assignor at a rate of 1 ¼% per month on any payments which are past due and unpaid for more than thirty (30) days.

## *5. Reports.*

5.1 Assignee shall submit to each Assignor on or before the last day of each February, May, August and November, respectively, for the preceding calendar quarter during any period for which payments are due hereunder, a written report identifying all Included Product subject to payment during such calendar quarter. Each such report shall be accompanied by separate checks payable to each respective Assignor in the amount of their respective interests in the Assigned Property accrued during such quarter as provided herein.

5.2 Assignee shall keep such detailed records and books of account of all Included Product manufactured or sold by Assignee or its Affiliates as may be necessary to determine any report or payment due under this Agreement. Upon ten (10) days written notice, such records and books of account shall be open to inspection during normal business hours by an independent accountant selected by Assignor to the extent necessary to certify the correctness of the reports and any payment accrued. Before reviewing Assignee's books and records, however, any such

accountant must sign a confidentiality agreement conforming to the restrictions imposed on each Assignor by Paragraph 12 hereof.

5.3 In the event payments for any calendar year are underpaid by an amount equal to ten percent (10%) or more of the payments actually due for that year, then Assignee shall pay to Assignor:

- (a) all expenses incurred in conducting the audit or inspection which determined the deficiency;
- (b) the payment deficiencies; and
- (c) interest at a rate of 1 ¼% per month on the payment deficiencies from the time they should have originally been paid.

## 6. *Prosecution and Maintenance of Patents and Patent Applications.*

6.1 Assignor hereby agrees to promptly supply Assignee upon request with a complete copy of each application for Letters Patent filed by it and coming within the scope of this Agreement, and agrees that Assignee may have access to any such application in the United States Patent Office or any other patent office for inspection and copying.

6.2 Assignor and Assignee agree to diligently prosecute the Patents with counsel of Assignee's choosing at Assignee's expense, to transmit promptly to Assignor and Assignee upon request all official communications as soon as received from any patent office, to submit to Assignee and Assignor upon request all responses to such communications before filing them, and to give due consideration to the advice of Assignee and Assignor in this connection.

6.3 If, at any time during the life of the Agreement, Assignor or Assignee intends to allow any assigned Patents to lapse or to become abandoned or forfeited without having first filed a substitute, Assignor or Assignee shall: (1) notify the other in writing of its intention at least sixty (60) days before the date on which the Patent is due to lapse or to become abandoned or forfeited, and (2) within thirty (30) days of its giving written notice, if requested by Assignee or Assignor, at the expense of party requesting to continue the application, transfer the burden of prosecution of the application to such party and to counsel of such parties choosing.

6.4 Assignor and Assignee also agree to file at the expense of Assignee foreign patent applications corresponding to the Assigned Property in countries designated by Assignee. If Assignee does not file in a foreign country within ninety (90) days after written request by Assignor for filing in such foreign country, Assignor shall have the right to file patent applications in such foreign country at Assignor's expense.

## 7. *Enforcement of Assigned Patent*

7.1 Upon the discovery of any infringement of said Assigned Property, Assignor and Assignee shall each have the option, but not the obligation, to take appropriate legal action in connection therewith. In the event that such action is taken, Assignor and Assignee shall each have no obligation to contribute to the expenses of any such action. If Assignor elects not to participate in such action, any royalty due and future royalties later due to such Assignor shall not be reduced by the costs of such action. If Assignee and Assignor determine to pursue such action, each shall have the option to participate in any such action, with each sharing in such action, which is divided according to their respective monetary contribution in advance of such action, unless otherwise agreed in writing. Control of such action shall be in the particular one of the Parties having the greatest percentage share in such action.

7.2 If any damages for infringement are awarded by a final decree or judgment to Assignor and Assignee, then after deducting all expenses arising from the litigation and

## ASSIGNMENT AND AGREEMENT

Atty Dkt No. DABT-27,880US

Page 4 of 8

reimbursing each contributing Party for its contributions, the remainder shall be divided equally among the contributing Parties. If one Party shall not wish to join or continue in any such action, but the other Party shall wish to institute or continue such action, said one Party shall render all reasonable assistance to said other Party in connection therewith at said other Party's expense and said other Party shall be entitled to retain all recoveries obtained with respect to such action.

8. *Defense of Infringement Suit.* If Assignee or any customer of Assignee shall be charged with or sued for infringement of any United States patent of another by doing acts necessary to practice the inventions of the patents of the Assigned Property, Assignee shall promptly notify Assignor of the name and address of each such other or others charging infringements or suing therefor. Assignee and Assignor shall cooperate in the disposition of each such charge and the defense of each such suit, and Assignee shall have the right to control the defense thereof. Assignee shall have the right to reimburse itself from future royalties becoming due hereunder, following the filing of each such suit, for all its expenses and/or damages arising out of, or in connection with, the defense of each such suit.

9. *Patent Invalidity.* If in any suit involving the validity or infringement of claims of the patents of the Assigned Property, such claims have been held to be invalid, or not infringed, by a final judgment or decree from which no appeal can be taken, then in that event Assignee shall be free of any obligation hereunder to the same extent, as and to the same or equivalent subject matter, as the Party in whose favor said judgment or decree shall have been entered, while said final judgment or decree shall be in effect.

10. *Sublicensing.* Assignee shall have the right, at any time, upon thirty (30) days' notice in writing to Assignor, to grant licenses and sublicenses.

11. *Force Majeure Provisions.* It is further agreed that the provisions of this Agreement shall be suspended if and in the event any of the following occur: either Party is unable to perform under the terms of this Agreement from causes incident to or resulting from present and perspective emergency conditions, or other causes beyond the reasonable control of said Party, including but not limited to, transportation delays or interruptions, strikes, acts of God, national emergency, war, fire, flood, hurricane, or similar conditions.

12. *Confidentiality.* All information provided to Assignor or their agents or employees pursuant to this Agreement, including information provided under Paragraph 6, shall be treated as highly confidential and not disclosed by Assignee or their agents or employees to any person or entity not a party to this Agreement, unless required by court order.

13. *Notice.* Any and all notices which must be given in accordance with this Agreement shall be sent via certified mail, express mail or overnight courier as follows:

To Assignor:

Julia Diann Abbott  
1714 Williams Road  
Irving, Texas 75060

To Assignee:

The Eleanor G. Taylor Trust  
5051 63d Street  
San Diego, California 92115

Attn: Eleanor G. Taylor

All notices under this Agreement shall be deemed effective twenty-four (24) hours after delivery thereof to each of the Parties, or a Parties successor in interest.

14. *No Representation or Warranties.* Assignor and Assignee makes no representations or warranties with respect to any patent in the Assigned Property including, without limitation, any representation or warranty with respect to the merchantability or fitness for any particular purpose of any product made in accordance with any patent of the Assigned Property or the validity of any claims of any patent of the Assigned Property. Neither Assignor nor Assignee shall not be under any affirmative obligation to pay maintenance fees or taxes on, or otherwise maintain in force and effect, any patent included in the Assigned Property.

15. *Binding on Parties and Their Successors.* This Agreement shall be binding on and inure to the benefit of the parties hereto and their successors and permitted assigns. No amendment or modification of this Agreement shall be valid or binding upon the parties unless made in writing and signed by or on behalf of each party.

16. *Entire Agreement.* This document constitutes the entire agreement and supersedes and/or merges all previous arrangements and understandings, oral or written, between the parties relating to the subject matter hereof. Neither party shall have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name of or on behalf of the other party.

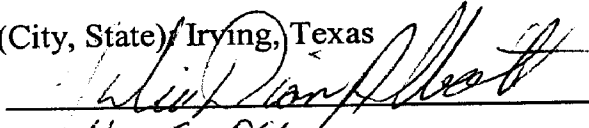
17. *Severability.* If any provision of this Agreement is judicially determined to be illegal, invalid or unenforceable, under present or future laws, such provisions shall be fully severable and there shall be added automatically as a part of this Agreement a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible to be legal, valid and enforceable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof. The remaining provisions shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision.

18. *Choice of Law.* This Agreement is being executed and delivered and is intended to be performed pursuant to the laws of the State of Texas and the laws of such State shall govern its validity, construction, interpretation and enforcement.

IN WITNESS WHEREOF the parties have duly executed duplicate originals of this Agreement on the dates and in the capacities stated below.

Name of Assignor: Julia Diann Abbott

Residence (City, State) Irving, Texas

Signature: 

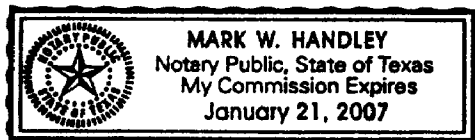
Date: 11-5-04

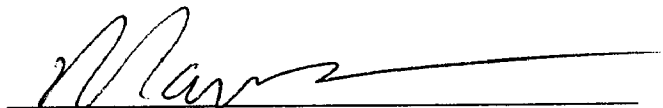
STATE OF TEXAS §

COUNTY OF DALLAS § ss:

BEFORE ME, a Notary Public, on this 4th day of November, 2004, personally appeared Julia Diann Abbott, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed same of her own free will for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this 5<sup>th</sup> day of Nov A.D., 2004.





Notary Public

Commission Expires:

Jan 21, 2007



Name of Assignee: Eleanor G. Taylor, as Trustee for The Eleanor G. Taylor Trust

Residence (City, State): San Diego, California

Signature: Eleanor G. Taylor

Date: Dec 17 2004

STATE OF CALIFORNIA §

COUNTY OF SAN DIEGO § ss:

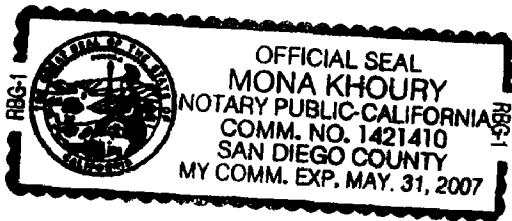
BEFORE ME, a Notary Public, on this 17<sup>th</sup> day of December, 2004, personally appeared Eleanor G. Taylor, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that she executed same of her own free will for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL of office this 17<sup>th</sup> day of December A.D., 2004.

Mona Khoury  
Notary Public

Commission Expires:

May 31<sup>st</sup> 2007



ASSIGNMENT AND AGREEMENT

Atty Dkt No. DABT-27,880US

Page 8 of 8

RECORDED: 01/13/2005

PATENT  
REEL: 016147 FRAME: 0290