

06/16/2014



103667938

Form PTO-1595 (Rev. 03-11)
OMB No. 0651-0027 (Exp. 04/30/2015)U.S. DEPARTMENT OF COMMERCE
United States Patent and Trademark Office

RECORDATION FORM COVER SHEET PATENTS ONLY

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)

ECOLOGY COATINGS, INC.

Additional name(s) of conveying party(ies) attached? ☐ Yes ☒ No**3. Nature of conveyance/Execution Date(s):**

Execution Date(s) April 27, 2014

- ☐ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Joint Research Agreement
☐ Government Interest Assignment
☐ Executive Order 9424, Confirmatory License
☒ Other Foreclosure

2. Name and address of receiving party(ies)

Name: JOHN M. "PETE" SALPIETRA

Internal Address: _____

Street Address: 2693 Heights View Court

City: Rochester Hills

State: Michigan

Country: USA Zip: 48306

Additional name(s) & address(es) attached? ☐ Yes ☒ No**4. Application or patent number(s):**☐ This document is being filed together with a new application.

A. Patent Application No.(s)

B. Patent No.(s)

7,323,248 7,151,123 7,192,992 7,238,731 7,498,362 7,153,892
8,273,560 B2 8,273,560Additional numbers attached? ☐ Yes ☒ No**5. Name and address to whom correspondence concerning document should be mailed:**

Name: Daniel Iannotti

Internal Address: _____

Street Address: 1475 Club Drive

City: Bloomfield Hills

State: Michigan Zip: 48302

Phone Number: 313-433-6420

Docket Number: 103667671

Email Address: Dan@TheGeneralCounsel.com

6. Total number of applications and patents involved: 8**7. Total fee (37 CFR 1.21(h) & 3.41) \$320**

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

8. Payment Information

Deposit Account Number _____

Authorized User Name _____

9. Signature:

Signature

June 11, 2014

Date

Daniel Iannotti, Attorney

Name of Person Signing

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

20

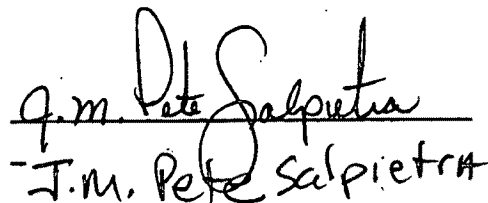
Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, V.A. 22313-1450

PATENT
REEL: 033133 FRAME: 0828

AFFIDAVIT

Being first duly sworn, John M. "Pete" Salpietra states as follows:

- I am competent to testify as to the matters contained in this Affidavit.
- In May of 2010, I loaned \$600,000 Ecology Coatings, Inc. ("Ecology") secured by all of Ecology's intellectual property – including all of Ecology's patents and trademarks.
- I secured my interest in Ecology's intellectual property by filing UCC statements with the Nevada Secretary of State on May 10, 2010 (attached).
- Ecology has not repaid the debt and is in default under the promissory note.
- On May 15, 2013, Ecology filed for Chapter 7 bankruptcy liquidation in the United States District Court for the Eastern District of Michigan (attached).
- On March 18, 2014, the US Bankruptcy Court granted my Motion for relief from the automatic bankruptcy stay (attached) allowing me to foreclose on the intellectual property.
- On April 7, 2014, I notified Ecology's former Chairman and CEO (James Juliano) that, unless Ecology objects within 20 days of my notice, I would strictly foreclose on my secured interest in Ecology's intellectual property in lieu of seeking repayment of the debt. I took this action relying on UCC 9-620 of the Nevada Code – NRS 104.9620.
- More than 20 days have elapsed since I provided Ecology notice of my intention to strictly foreclose on its intellectual property and I have not received any objection.

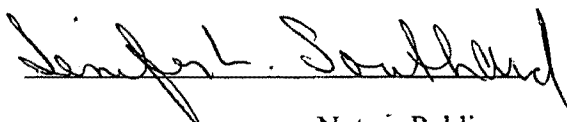

J.M. Pete Salpietra

John M. "Pete" Salpietra

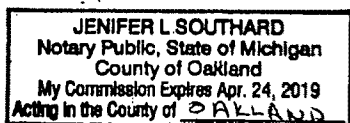
State of Michigan)

County of Oakland)

Subscribed and sworn to before me this 15th day of May, 2014


_____, Notary Public

My commission expires:



STATE OF NEVADA



ROSS MILLER
Secretary of State

SCOTT W. ANDERSON
*Deputy Secretary
for Commercial Recordings*

OFFICE OF THE
SECRETARY OF STATE

May 10, 2010

Job Number: U20100510-0066

Job Contents:

Filing Acknowledgement(s):

1

Special Handling Instructions:

DAN IANNOTTI
ECOLOGY COATINGS, INC.
2701 CAMBRIDGE COURT
SUITE 100
AUBURN HILLS MI 48326

STATE OF NEVADA



ROSS MILLER
Secretary of State

SCOTT W. ANDERSON
Deputy Secretary
for Commercial Recordings

OFFICE OF THE
SECRETARY OF STATE

Job Receipt

May 10, 2010

Job Number: U20100510-0066
Account
Number:
Re: ECOLOGY COATINGS, INC.

Charges

Description	Filing Number	Filing Date/Time	Qty	Price	Amount
Initial Financing Statement	2010011669-2	05-10-2010 12:23 PM	1	\$30.00	\$30.00
Total					\$30.00

Payments

Type	Description	Amount
Credit	251766 10051041107947	\$30.00
Total		\$30.00

UCC DIVISION:
Tracy Gillespie, Supervisor
200 N. Carson Street
Carson City, Nevada 89701-4069
Telephone (775) 684-5708
Fax (775) 684-5630

STATE OF NEVADA

ROSS MILLER
Secretary of State



SCOTT W. ANDERSON
Deputy Secretary
for Commercial Recordings

OFFICE OF THE
SECRETARY OF STATE

Filing Acknowledgement

May 10, 2010

Job Number
U20100510-0066

Initial Filing Number
2010011669-2

Filing Description
Initial Financing Statement

Document Filing Number
2010011669-2

Date/Time of Filing
05-10-2010 12:23 PM

Debtors

ECOLOGY COATINGS, INC.
2701 CAMBRIDGE COURT, SUITE 100
AUBURN HILLS MI 48326 USA

Secured Parties

SALPIETRA, JOHN M.
2693 HEIGHTS VIEW COURT
ROCHESTER HILLS MI 48178 USA

The attached document(s) were filed with the Nevada Secretary of State, Uniform Commercial Code Division. The filing date and time have been affixed to each document, indicating the date and time of filing. A filing number is also affixed and can be used to reference this document in the future.

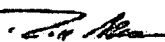
Nevada Secretary of State
Electronic Filing
Filing Officer

UCC DIVISION:
Tracy Gillespie, Supervisor
200 N. Carson Street
Carson City, Nevada 89701-4069
Telephone (775) 684-5708
Fax (775) 684-5630

UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER (optional)	
DAN IANNOTTI	
B. SEND ACKNOWLEDGMENT TO: (Name and Address)	
DAN IANNOTTI ECOLOGY COATINGS, INC. 2701 CAMBRIDGE COURT SUITE 100 AUBURN HILLS, MI 48326	

Filed in the office of  Ross Miller Secretary of State State of Nevada	Document Number 2010011669-2
	Filing Date and Time 05/10/2010 12:23 PM

(The document was filed electronically.)
THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - Insert only <u>one</u> debtor name (1a or 1b) - do not abbreviate or combine names					
1a. ORGANIZATION'S NAME ECOLOGY COATINGS, INC.					
OR					
1b. INDIVIDUAL'S LAST NAME		FIRST NAME		MIDDLE NAME	SUFFIX
1c. MAILING ADDRESS 2701 CAMBRIDGE COURT, SUITE 100		CITY AUBURN HILLS		STATE MI	POSTAL CODE 48326
				COUNTRY USA	
1d. SEE INSTRUCTIONS	ADDL INFO RE ORGANIZATION DEBTOR	1e. TYPE OF ORGANIZATION CORPORATION	1f. JURISDICTION OF ORGANIZATION NEVADA	1g. ORGANIZATIONAL ID #, if any NV20021223287	
2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only <u>one</u> debtor name (2a or 2b) - do not abbreviate or combine names					
2a. ORGANIZATION'S NAME					
OR					
2b. INDIVIDUAL'S LAST NAME		FIRST NAME		MIDDLE NAME	SUFFIX
2c. MAILING ADDRESS		CITY		STATE	POSTAL CODE
2d. SEE INSTRUCTIONS		ADDL INFO RE ORGANIZATION DEBTOR	2e. TYPE OF ORGANIZATION	2f. JURISDICTION OF ORGANIZATION	2g. ORGANIZATIONAL ID #, if any
3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - Insert only <u>one</u> secured party name (3a or 3b)					
3a. ORGANIZATION'S NAME					
OR					
3b. INDIVIDUAL'S LAST NAME SALPIETRA		FIRST NAME JOHN		MIDDLE NAME M.	SUFFIX
3c. MAILING ADDRESS 2693 HEIGHTS VIEW COURT		CITY ROCHESTER HILLS		STATE MI	POSTAL CODE 48178
				COUNTRY USA	
4. This FINANCING STATEMENT covers the following collateral: ALL ECOLOGY COATINGS, INC.'S PATENTS AND PATENT APPLICATIONS NOW OWNED OR HEREAFTER ACQUIRED, INCLUDING: 1) U.S. PATENT NOS. 7,323,248, 7,425,586, 7,151,123, 7,192,992, 7,238,731, 7,498,362, AND 7,153,892; 2) EUROPEAN PATENT OFFICE NO. 1723180; 3) SOUTH AFRICA PATENT NO. 2008/02950; 4) FRANCE PATENT RELATING TO EUROPEAN PATENT OFFICE NO. 1723180; 5) U.S. PATENT APPLICATION SERIAL NO. 11/234,672, 11/459,876, 11/733,742, 61230596 AND 61/159,871; 6) CHINA PATENT APPLICATIONS NO. 580003994.1 AND 580007317.7; 7) HONG KONG PATENT APPLICATION 7103859.7; 8) AUSTRALIA PATENT APPLICATION 2005336938; 9) BRAZIL PATENT APPLICATION PI 0520559-0; 10) EUROPEAN PATENT OFFICE PATENT APPLICATION 5801000; 11) ISRAEL PATENT APPLICATION NO. 190356; 12) INDIA PATENT APPLICATION 2056/CHENP/08; 13) JAPAN PATENT APPLICATION 2008-532199; 14) KOREA PATENT APPLICATION 10-2008-7009191; 15) MEXICO PATENT APPLICATION MX/A/2008/003799; 16) NEW ZEALAND PATENT APPLICATION NO. 567035; 17) EURASIA PATENT APPLICATION 200800906; AND 18) PATENT COOPERATION TREATY APPLICATION NO. PCT/US08/59787. ALL ECOLOGY COATINGS, INC.'S PROPRIETARY FORMULATIONS NOW OWNED OR HEREAFTER ACQUIRED, INCLUDING THE FOLLOWING ECOQUIR FORMULATIONS: 1000, 1010, 1015, 1020, 1040, 1050, 2000, 2010, 2050, 3000, 3010, 3020, 3021, 3050, 3051, 3052, 4000, 5000, 5050, 5060, 5061, 6000, 6010, AND 6020.					
5. ALTERNATIVE DESIGNATION (if applicable): <input type="checkbox"/> LESSOR/LESSOR <input type="checkbox"/> CONSIGNEE/CONSIGNOR <input type="checkbox"/> BAILEE/BAILO <input type="checkbox"/> SELLER/BUYER <input type="checkbox"/> AG. LIEN <input type="checkbox"/> NON-UCC FILING					
6. <input type="checkbox"/> This FINANCING STATEMENT is to be filed (for record) (or recorded) in the REAL ESTATE RECORDS. <input type="checkbox"/> Attach Addendum. <input type="checkbox"/> 7. Check to REQUEST SEARCH REPORT(S) on Debtor(s). <input type="checkbox"/> All Debtors <input type="checkbox"/> Debtor 1 <input type="checkbox"/> Debtor 2 <input type="checkbox"/> (optional) <input type="checkbox"/> (ADDITIONAL FEE)					
8. OPTIONAL FILER REFERENCE DATA					

FILING OFFICE COPY — UCC FINANCING STATEMENT (FORM UCC1) (REV. 05/22/02)

PATENT

REEL: 033133 FRAME: 0834

UCC FINANCING STATEMENT ADDENDUM

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

9. NAME OF FIRST DEBTOR (1a or 1b) ON RELATED FINANCING STATEMENT9a. ORGANIZATION'S NAME
ECOLOGY COATINGS, INC.

OR

9b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME, SUFFIX

10. MISCELLANEOUS:(This document was filed electronically.)
THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY**11. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - Insert only one name (11a or 11b) - do not abbreviate or combine names**

11a. ORGANIZATION'S NAME

OR

11b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

11c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

11d. SEE INSTRUCTIONS

ADD INFO RE
ORGANIZATION
DEBTOR

11e. TYPE OF ORGANIZATION

11f. JURISDICTION OF ORGANIZATION

11g. ORGANIZATIONAL ID #, if any

☐ NONE**12. ADDITIONAL SECURED PARTY'S or ASSIGNOR S/P'S NAME - Insert only one name (12a or 12b)**

12a. ORGANIZATION'S NAME

OR

12b. INDIVIDUAL'S LAST NAME FIRST NAME MIDDLE NAME SUFFIX

12c. MAILING ADDRESS

CITY

STATE

POSTAL CODE

COUNTRY

13. This FINANCING STATEMENT covers ☐ timber to be cut or ☐ as-extracted
collateral, or is filed as a ☐ fixture filing.

14. Description of real estate:

16. Additional collateral description:

ALL TRADEMARKS NOW OWNED OR HEREAFTER ACQUIRED, INCLUDING
U.S. TRADEMARK NOS. 77/134,385, 77/134,364 AND 6292965.ALL CUSTOMER CONTRACT RIGHTS, INCLUDING RIGHTS ASSOCIATED
WITH A COMMERCIALIZATION AGREEMENT WS PACKAGING GROUP,
INC. DATED FEBRUARY 3, 2010.ALL INTANGIBLE RIGHTS ASSOCIATED WITH ECOLOGY COATINGS,
INC.'S STATUS AS A PUBLIC COMPANY, INCLUDING ITS LISTING ON
THE OVER-THE-COUNTER BULLETIN BOARD SYSTEM AND FILINGS
WITH THE SECURITIES AND EXCHANGE COMMISSION.15. Name and address of a RECORD OWNER of above-described real estate
(? Debtor does not have a record interest):

17. Check only if applicable and check only one box

Debtor is a ☐ Trust or ☐ Trustee acting with respect to property held in trust or ☐ Decedent's Estate

18. Check only if applicable and check only one box

☐ Debtor is a TRANSMITTING UTILITY☐ Filed in connection with a Manufactured-Home Transaction — effective 30 years.☐ Filed in connection with a Public-Finance Transaction — effective 30 years.

FILING OFFICE COPY — UCC FINANCING STATEMENT ADDENDUM (FORM UCC1Ad) (REV. 05/22/02)

PATENT

REEL: 033133 FRAME: 0835

UNITED STATES BANKRUPTCY COURT
Eastern District of Michigan

Notice of
Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines

A chapter 7 bankruptcy case concerning the debtor(s) listed below was filed on 5/15/13.

You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below. NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

Creditors --- Do not file this notice in connection with any proof of claim you submit to the court.
See Reverse Side For Important Explanations

Debtor(s) (name(s) used by the debtor(s) in the last 8 years, including married, maiden, trade, and address):

Ecology Coatings, Inc.
 fdba Ecology--CA
 24663 Mound Road
 Warren, MI 48091

Case Number:
 13-49950-wsd

Social Security / Individual Taxpayer ID / Employer Tax ID / Other
 nos:
 26-0014658

Attorney for Debtor(s) (name and address):

Patrick N. Butler
 Redman Law Firm, PLLC
 209 N. Old Woodward Avenue
 Birmingham, MI 48009
 Telephone number: (248) 594-5959

Bankruptcy Trustee (name and address):

Wendy Turner Lewis
 444 West Willis Street
 Suite #101
 Detroit, MI 48201
 Telephone number: 313-832-5555

Meeting of Creditors

Date: June 20, 2013

Time: 01:00 PM

Location: 211 West Fort St., Room 315, Detroit, MI 48226

Creditors May Not Take Certain Actions:

In most instances, the filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized. Consult a lawyer to determine your rights in this case.

Please Do Not File a Proof of Claim Unless You Receive a Notice To Do So.

Creditor with a Foreign Address:

A creditor to whom this notice is sent at a foreign address should read the information under "Do Not File a Proof of Claim at This Time" on the reverse side.

Address of the Bankruptcy Clerk's Office:

211 West Fort Street
 Detroit, MI 48226
 Telephone number: 313-234-0065

For the Court:

Clerk of the Bankruptcy Court:
 Katherine B. Gullo

Hours Open: Monday - Friday 08:30 AM - 4:00 PM

Date: 5/15/13

EXPLANATIONS

B9B (Official Form 9B) (12/12)

Filing of Chapter 7 Bankruptcy Case	A bankruptcy case under Chapter 7 of the Bankruptcy Code (title 11, United States Code) has been filed in this court by or against the debtor(s) listed on the front side, and an order for relief has been entered.
Legal Advice	The staff of the bankruptcy clerk's office cannot give legal advice. Consult a lawyer to determine your rights in this case.
Creditors Generally May Not Take Certain Actions	Prohibited collection actions are listed in Bankruptcy Code §362. Common examples of prohibited actions include contacting the debtor by telephone, mail or otherwise to demand repayment, taking actions to collect money or obtain property from the debtor; repossessing the debtor's property; and starting or continuing lawsuits or foreclosures. Under certain circumstances, the stay may be limited to 30 days or not exist at all, although the debtor can request the court to extend or impose a stay.
Meeting of Creditors	A meeting of creditors is scheduled for the date, time and location listed on the front side. The <i>debtor's representative must be present at the meeting to be questioned under oath by the trustee and by creditors</i> . Creditors are welcome to attend, but are not required to do so. The meeting may be continued and concluded at a later date specified in a notice filed with the court.
Do Not File a Proof of Claim at This Time	There does not appear to be any property available to the trustee to pay creditors. <i>You therefore should not file a proof of claim at this time</i> . If it later appears that assets are available to pay creditors, you will be sent another notice telling you that you may file a proof of claim, and telling you the deadline for filing your proof of claim. If this notice is mailed to a creditor at a foreign address, the creditor may file a motion requesting the court to extend the deadline. <i>Do not include this notice with any filing you make with the court.</i>
Bankruptcy Clerk's Office	Any paper that you file in this bankruptcy case should be filed at the bankruptcy clerk's office at the address listed on the front side. You may inspect all papers filed, including the list of the debtor's property and debts and the list of the property claimed as exempt, at the bankruptcy clerk's office.
Creditor with a Foreign Address	Consult a lawyer familiar with United States bankruptcy law if you have any questions regarding your rights in this case.
Refer to Other Side for Important Deadlines and Notices	
The Court will dismiss this case without a hearing if the debtor(s) do not timely file all required documents and if no request for a hearing on dismissal is filed within 21 days after the petition is filed. The Clerk will give notice of the hearing on dismissal only to the party requesting the hearing, the debtor and the trustee.	

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION – DETROIT

In re:

Ecology Coatings, Inc.,

Debtor.

Case No.: 13-49950-wsd

Chapter 7

Hon. Walter Shapero

OPINION GRANTING MOTION FOR RELIEF FROM AUTOMATIC STAY

Background

Ecology Coatings, Inc. (“Ecology”) is a Nevada corporation with a business presence in Michigan and Ohio. It developed innovative multi-use coatings intended to be cost-effective and environmentally friendly because they were cured by ultraviolet light rather than heat. Ecology’s primary assets are a number of patents and patent applications, as well as various formulas, trademarks, and other forms of intellectual property (together, “Intellectual Property”). Ecology became a public company in July 2007, but never had a public offering. A valuation conducted in February 2008 estimated the potential value of the Intellectual Property at \$50-\$55 million. Ecology’s apparent potential led various equity investors and Ecology’s own officers to invest large sums of money in it. It undertook efforts to (a) sell or license the Intellectual Property, including through brokers and large chemical companies and (b) market the Intellectual Property to various prominent businesses, as was evidenced in its lengthy Commercial Opportunity Summary (Ex. 1). Ultimately, Ecology was altogether unsuccessful in commercializing or realizing any material value from the Intellectual Property. Daniel Iannotti testified that during his time as Ecology’s vice president, general counsel, and secretary (between August 2008 and December 2012), it only earned about \$30,000 in revenue, mostly not from actual sales or

licensing, but rather by Ecology being reimbursed for the costs of product trials it conducted for potential customers. A majority of these product trials were unsuccessful.

As of the spring of 2010, Ecology was unable to acquire new financing and was virtually bankrupt. John Michael Salpietra, who was friendly with members of Ecology's board of directors, stepped in to finance its operations. On or about May 11, 2010, Ecology signed a Secured Promissory Note ("Note") for \$600,000 at 4.75% interest, which evidenced Ecology's repayment obligation to Salpietra on a loan for that amount, which was secured by the Intellectual Property. That same day, Salpietra wired \$300,000 from his personal bank account into Ecology's bank account and made 17 other wire transfers to Ecology in various amounts between June 2010 and December 2010. Altogether, these transfers totaled \$600,000, as evidenced by bank records (Ex. 2). Ecology filed notice of this transaction with the Securities and Exchange Commission. On May 10, 2010, Salpietra recorded his security interest in the Intellectual Property with the Nevada Secretary of State, but did not record it with the U.S. Patent and Trademark Office.

Pursuant to the terms of the Note, at some point, the maturity date was extended by 30 days in exchange for Salpietra receiving the option to purchase 15,000 shares of Ecology stock. Iannotti testified that there may have been a number of such extensions. Subsequently, after Ecology exhausted the \$600,000, Salpietra made multiple additional unsecured loans in exchange for separate promissory notes totaling \$260,000 (which were evidenced by Ecology's filings with the Securities and Exchange Commission, though the notes themselves and the bank records evidencing the transfers of money were not in evidence) and for more stock. He also appears to have made informal separate unsecured "loans" to Ecology by paying its premises rent in exchange for stock or promissory notes. Salpietra received the bulk of his shares in

Ecology stock primarily by way of an investment he made through Fairmount Five, LLC. In late 2011 or early 2012, that entity converted its investment in Ecology to Ecology shares and distributed those shares to Salpietra and others who had invested in Fairmount Five, LLC. In all, Salpietra amassed over one million shares of Ecology stock. In early 2011, he became a member of Ecology's board, but not an officer. He was not compensated for his services.

Facing substantial financial difficulties, Ecology ceased operating in December 2012 and filed its Chapter 7 bankruptcy on May 15, 2013, scheduling debts to its various investors, among others, and the Intellectual Property among its assets.¹ Salpietra moved for relief from the automatic stay. The motion was opposed by Mitch Shaheen, who in July 2008 had made two unsecured loans to Ecology totaling \$250,000. As such loans were intended to be short-term until Ecology obtained alternate financing, Ecology agreed to pay him 25% interest APR. Ecology was unable to obtain the alternate financing, causing the interest on Shaheen's loans to compound dramatically. Shaheen filed a secured proof of claim in the amount of \$818,363.53 stemming from a judgment he obtained in December 2011 in the U.S. District Court for the Eastern District of Michigan. Although he claims to be a secured creditor, Shaheen apparently has no specific security interest in the Intellectual Property.² Shaheen alleges that the Intellectual Property can be sold for an amount higher than Salpietra's secured claim, thus potentially allowing for the repayment of at least a portion of Shaheen's claim. The Chapter 7 Trustee originally opposed Salpietra's motion, but since withdrew that objection, effectively abandoning

¹ Ecology's only other possible asset of value is its "public shell," i.e. the vehicle by which it became a public company through a reverse merger. The Trustee has indicated that Salpietra's security interest does not extend to this asset, but has expressed doubts as to whether it is salable or has any value.

² Shaheen, as the basis for his claim being secured, had filed with the Macomb County Register of Deeds a Notice of Judgment Lien, which was issued pursuant to and references Mich. Comp. Laws § 600.2805. That provision only pertains to a judgment debtor's current or future interests in real property (of which Ecology has none). See Mich. Comp. Laws § 600.2803.

the Intellectual Property as an asset of the estate. The contested issues here are (a) whether Salpietra holds a valid security interest in the Intellectual Property and (b) whether Ecology has any equity in the Intellectual Property sufficient to defeat Salpietra's motion.

Discussion

I. Whether Salpietra Has a Valid Security Interest in the Intellectual Property

Shaheen challenges the validity of Salpietra's purported security interest in the Intellectual Property because it was not recorded with the U.S. Patent and Trademark Office (PTO). Shaheen argues that, notwithstanding the filing of the UCC statement with the Nevada Secretary of State, a filing with the PTO is required by 35 U.S.C. § 261 of the Patent Act, which states in relevant part:

An interest that constitutes an assignment, grant or conveyance shall be void as against any subsequent purchaser or mortgagee for a valuable consideration, without notice, unless it is recorded in the Patent and Trademark Office within three months from its date or prior to the date of such subsequent purchase or mortgage.

As there is no binding case law in the Sixth Circuit on this issue, Salpietra relies principally on Moldo v. Matsco, Inc. (In re Cybernetic Servs., Inc.), 252 F.3d 1039 (9th Cir. 2001) which held that recording a security interest in a patent pursuant to the California UCC was sufficient to perfect it, and that filing with the PTO was not required. The court opined that "assignment, grant or conveyance" refers to and encompasses only transfers of ownership, not to the creation of a security interest. Id. at 1048-52. For example, an interest that constitutes a "grant" was interpreted as meaning the transfer of an ownership interest pertaining to a specific geographic area, not the "granting" of a security interest. Id. at 1050. That court also held that the Patent Act was not preempted by the subsequently-adopted Article 9 of the UCC. Congress has revised the Patent Act numerous times and, in doing so, continually preserved the language requiring filing

with the PTO only for transfers of ownership interests. Id. at 1056. This thoroughly reasoned analysis was adopted by In re Tower Tech, Inc., 67 Fed. Appx. 521 (10th Cir. 2003) (unpublished) and In re Pasteurized Eggs Corp., 296 B.R. 283 (Bankr. D. N.H. 2003), and commends itself to this Court.

Shaheen's arguments against Cybernetic are unpersuasive. First, this Court declines Shaheen's invitation to apply City Bank & Trust Co. v. Otto Fabric, Inc. (In re Otto Fabric, Inc.), 55 B.R. 654 (Bankr. D. Kan. 1985) (holding that a filing with the PTO is required to perfect a security interest in a patent) because that case (a) was reversed on appeal on that very issue in 83 B.R. 780 (D. Kan. 1988); and (b) is contrary to the greater persuasive weight of the above-noted authorities. Second, this Court is not persuaded by Shaheen's discussion of Nat'l Peregrine, Inc. v. Capitol Fed. Savs. & Loan Ass'n (In re Peregrine Entm't, Ltd.), 116 B.R. 194 (C.D. Cal. 1990), which is a copyright case. The terms of the applicable statutes relating to copyrights, unlike the patent statutes, specifically refer to and govern security interests, as was discussed by Cybernetic, 252 F.3d at 1056. Therefore, this Court concludes that Salpietra properly perfected a security interest in the Intellectual Property and Shaheen, as the party contesting such, has not borne his burden.

II. The Amount of Salpietra's Secured Claim

To prevail, Salpietra must show that Ecology has no equity in the Intellectual Property, i.e. that its value is less than the amount of Salpietra's secured claim. Salpietra's filed proof of claim of \$987,046.57 consists of a secured portion of \$687,019.57, as noted, with the difference being the unsecured portion.³ As the filed claim met the form and content requirements of

³ Although the Note provides that Ecology shall reimburse Salpietra for all reasonable costs, attorney's fees, and other expenses in connection with the Note, Salpietra's proof of claim does not request such as being part of the secured claim.

Fed.R.Bankr.P. 3001, it constitutes prima facie evidence of both the validity and amount of that claim, which in essence shifts to Shaheen the burden of going forward to rebut the prima facie presumption. See In re Kemmer, 315 B.R. 706, 713 (Bankr. E.D. Tenn. 2004). The Court has heretofore dealt with the validity issue. Shaheen questions the amount of the claim, arguing initially that because Salpietra only advanced \$300,000 contemporaneously with the issuance of the Note, only that amount should be considered to be secured. The clear facts are that the remaining \$300,000 was in fact advanced over a period of months, that the Note clearly indicates the intention of Ecology and Salpietra that the entire \$600,000 was to be considered the obligation secured by the Intellectual Property, and that where other loans or loan extensions were made, they involved separate additional consideration (i.e. unsecured notes or issuances of stock). Shaheen has not directed the Court to any legal authority that for a loan to be secured, the advances constituting that loan otherwise intended to be secured must be all made at the same time. On the contrary, "An instrument is issued or transferred for value if... The instrument is issued or transferred for a promise of performance, *to the extent the promise has been performed.*" Mich. Comp. Laws § 440.3303(1) (emphasis added).

Shaheen also argues that Ecology has repaid a portion of the secured debt it owed to Salpietra. As noted, Salpietra continued to extend unsecured credit to Ecology in exchange for other promissory notes and for Ecology stock. Not only has Shaheen not borne his burden of proof on that argument, but the affirmative evidence before the Court was that the issuance of the stock to Salpietra was consideration for and incidental to new investments in Ecology separate from the secured loan, or a modification of existing loans (such as the extension of maturity dates). There is also direct testimony by Iannotti, who the Court finds to be a credible witness, that Ecology repaid nothing to Salpietra on the secured loan. Shaheen's argument that any

transfers of value to Salpietra (such as shares of stock) should have been applied to the prior secured debt, rather than the unsecured debt, are unpersuasive because, unless a debtor directs otherwise, a creditor is free to apply payments as it pleases. In re Corradini, 276 B.R. 571, 576 (Bankr. W.D. Mich. 2002) aff'd sub nom. Corradini v. Corradini, 75 Fed. Appx. 444 (6th Cir. 2003) (unpublished); People for Use & Benefit of Mich. Elec. Supply Co. v. Vandenburg Elec. Co., 343 Mich. 87, 92-93 (1955). It is evident that both Ecology and Shaheen deemed such transfers as applying to the unsecured debts, not the prior secured debt (though it is unclear whether that is because Ecology requested such application or whether Salpietra made that election in the absence of Ecology's request) (see Ex. 4, Pg. 33). The only reasonable conclusion that can be reached from this record is that the amount of the secured claim is the amount set forth in Salpietra's secured proof of claim and that Shaheen has not borne his burden of rebutting the prima facie presumption of the filed claim's validity (and even if he had, Salpietra would have borne his ultimate burden of proof by a preponderance).

III. The Value of the Intellectual Property

Whether Ecology has any equity in the Intellectual Property hinges on its value. Although no party contends that the 2008 valuation for \$50-55 million (conducted around Ecology's zenith) is even remotely indicative its actual present value, at no point has any party indicated its opinion of the value. No other professional valuation or appraisal was put into evidence, nor was any expert testimony offered. Iannotti, Salpietra's lay witness, testified as to the above-noted difficulties Ecology had in commercializing the Intellectual Property, an appropriate inference therefrom being that the value is minimal or perhaps nonexistent.

The Trustee's participation at the evidentiary hearing was very limited. She was primarily concerned with whether Salpietra had colluded to frustrate the administration of the Intellectual

Property as an asset of the bankruptcy estate, but ultimately concluded that was not the case. The Trustee detailed her various unsuccessful efforts to commercialize the Intellectual Property over a number of months. The Trustee took the position that Salpietra's secured claim is valid, meaning that in order for the Trustee to pay all the estate's administrative expenses,⁴ pay Salpietra's secured claim in full, and then begin paying other creditors, she would have to sell the Intellectual Property for substantially more than the amount of Salpietra's secured claim. The Trustee contemplated hiring a broker to sell the Intellectual Property, as she had done in a prior separate case, but found that brokers requested high retainer fees and apparently refused to work on a contingency basis. Ecology provided the Trustee with a list of about 15-20 persons who might be interested in buying or licensing the Intellectual Property. The Trustee approached these persons but was unsuccessful, though one unnamed person made an offer of \$400,000 (which the Trustee implied was declined). The Trustee also indicated that she was contacted by a number of Ecology's investors and shareholders regarding purchasing the Intellectual Property, but they were unable to reach any agreement. Unless outweighed by other credible evidence, a Chapter 7 trustee's position in such cases ought to be afforded considerable deference. Shaheen offered no countervailing evidence.

Thus, in sum, the value of the Intellectual Property (or the lack thereof) is reflected by the numerous unsuccessful efforts by various persons to derive any meaningful revenue from it. Ecology was not able to commercialize the Intellectual Property, either during its years of operation or during the 5-6 month period between its cessation of operation and its bankruptcy filing. Ecology's investors, at one point, had such faith in its profit potential that they personally

⁴ Aside from an administrative expense for the Trustee's fees, Ecology's landlord for their Akron, Ohio facility will also have an administrative expense for its costs in securing and storing certain chemicals that Ecology abandoned on the premises.

extended to it hundreds of thousands of dollars of unsecured credit. However, none of those investors appear to now have enough faith in the present value of the Intellectual Property to seek to acquire it for something in excess of Salpietra's secured claim.

The Court need not (and cannot) speculate as to the precise value of the Intellectual Property. But given these facts, it is quite clear that despite the best efforts of Ecology and the Trustee, who both possessed capable business judgment and were highly motivated to commercialize the Intellectual Property, no person is willing to purchase it for any amount approaching the amount of Salpietra's secured claim. These facts are highly probative of the Intellectual Property's lack of value or lack of any value that exceeds the amount of Salpietra's secured claim. Whether one describes the indicated evidence as "anecdotal," as Shaheen does, or otherwise, on this record and given the total lack of other evidence, it preponderates and is sufficient. The totality of the evidence leads to the fair and reasonable inference that the Intellectual Property is worth less than Salpietra's secured claim.⁵

The Court therefore finds by a preponderance, given the totality of the evidence presented, that the value of the Intellectual Property is low enough that Ecology has no equity therein and that Salpietra has met his burden of proof and is entitled to relief from the automatic stay as to the Intellectual Property. The Court will contemporaneously enter an appropriate order.

Signed on March 18, 2014

/s/ Walter Shapero
Walter Shapero
United States Bankruptcy Judge

⁵ It is worth noting that, based on this record, a similar conclusion would likely be reached if (as Shaheen argues) the amount of Salpietra's secured claim was substantially less than he claims.

Salpietra
2693 Heights View Court
Rochester Hills, MI 48306

April 7, 2014

Jim Juliano, Chairman
Ecology Coatings, Inc.
2701 Cambridge Court, #100
Auburn Hills, MI 48326

Jim Juliano, Chairman
Ecology Coatings, Inc.
24663 Mound
Warren, MI 48091

Jim Juliano
415 Pleasant
Birmingham, MI 48009


Dear Jim:

Ecology Coatings is in default under a secured promissory note dated May 11, 2010 between Ecology Coatings and me. The amount of my secured claim is \$687,019.57.

Please be advised that I intend to strictly foreclose on the property described in the enclosed security interest (collectively, "Intellectual Property") pursuant to UCC 9-620. I intend to accept the Intellectual Property in full satisfaction of my secured claim against Ecology Coatings. Accordingly, upon successful transfer of ownership rights in the Intellectual Property from Ecology Coatings to me, I will relinquish any deficiency claim against Ecology Coatings.

If you have any objection to my proposal to accept the Intellectual Property in full satisfaction of the Balance, you must send me an authenticated statement of your objection (including the basis for same) within twenty (20) days from the date this notice was sent. If we have not received an authenticated objection within that time period, you will be deemed to have consented to this proposal and will have no further right to object. If you intend to object to this strict foreclosure, kindly respond in writing to the address noted above.

Thank you



John M. "Pete" Salpietra


Enclosure (Secured Interest)

AFFIDAVIT

Being first duly sworn, Daniel Iannotti states as follows:

1. I am competent to testify as to the matters contained in this Affidavit.
2. I am an attorney licensed to practice law in Michigan (P30167) and Illinois (6208574).
3. I have prepared and read the Affidavit of John M. "Pete" Salpietra and it is true, correct and accurate.

4. It is my opinion that Mr. Salpietra has obtained full ownership of all of Ecology Coatings, Inc.'s ("Ecology") intellectual property – including all of the patents and trademarks associated with the attached Cover Sheets – under Nevada state law. More specifically, he has obtained ownership by following the steps identified in Uniform Commercial Code Article 9, Section 620 (Nevada Revised Statute Article 104, Section 9620 – NRS 104.9620). This Section provides for "Acceptance of collateral in full or partial satisfaction of obligation" and is also known as "strict foreclosure". By following the steps outlined in this Section, Mr. Salpietra has elected to take ownership of Ecology's patents and trademarks in lieu of seeking repayment of Ecology's \$600,000 note to him.

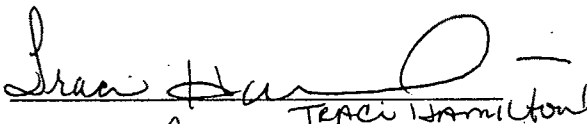


Daniel Iannotti

State of Michigan)

County of Oakland)

Subscribed and sworn to before me this 16 day of May, 2014


Traci Hamilton
Wayne County, Notary Public

My commission expires: Jan 18, 2020

Traci Hamilton
NOTARY PUBLIC, WAYNE COUNTY, MI
My Commission Expires 01/18/2020
Acting In Oakland County