

MRD 6-15-98

07-10-1998

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Attorney Docket No. 46715-00964

FORM PTO-1594

(Rev. 6-93)

OMB No. 0651-0011 (exp. 4/94)

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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

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

1. Name of conveying party(ies):

American Builders & Contractors Supply Co., Inc.

☐ Individual(s)
☐ General Partnership
☒ Corporation-State Delaware
☐ Other _____

☐ Association
☐ Limited
☐ Partnership

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

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

Name: NationsBank, N.A.

Internal Address: _____

Street Address: 901 Main Street, 6th FloorCity: Dallas State: TexasZIP: 75202

☐ Individual(s) citizenship _____
☒ Association a national banking association
☐ General Partnership _____
☐ Limited Partnership _____
☐ Corporation-State _____
☐ Other _____

If assignee is not domiciled in the United States, a domestic representative
designation is attached. ☐ Yes ☒ No

(Designations must be a separate document from Assignment)

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

3. Nature of conveyance:

☐ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☒ Other Second Amendment to Amended and Restated
Patent, Trademark and License Mortgage

Execution Date: May 18, 1998

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark registration No.(s)

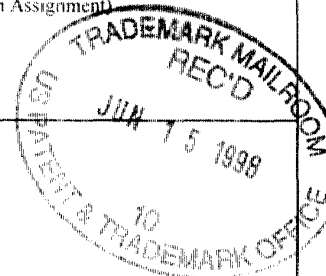
1,376,499	1,927,906
1,394,477	1,798,479
1,920,520	

Additional numbers attached? ☐ Yes ☒ No5. Name and address of party to whom correspondence
concerning document should be mailed:Name: Andrea WalkerInternal Address: Jenkins & Gilchrist, P.C.Street Address: 1445 Ross Avenue, Suite 3200City: Dallas State: TexasZIP: 75202-27996. Total number of applications and registrations involved: 5

7. Total fee (37 CFR 3.41):

\$ 140.00☒ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number:

10-0447

07/10/1998 DNGUYEN 00000017 1376499

DO NOT USE THIS SPACE

01 FC:401
02 FC:40240.00 DP
100.00 DP

9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.*Andrea Walker

Name of Person Signing

Andrea Walker
SignatureJune 11, 1998
DateTotal number of pages including cover sheet, attachments, and document: 9Mail documents to be recorded with required cover sheet information to:
Assistant Commissioner for Trademarks, 2900 Crystal Drive,
Arlington, Virginia 22202-3513, Box Assignments

TRADEMARK

REEL: 1750 FRAME: 0631

SECOND AMENDMENT
to
AMENDED AND RESTATED PATENT, TRADEMARK AND LICENSE MORTGAGE

This Second Amendment to Amended and Restated Patent, Trademark and License Mortgage (this "Amendment"), effective as of May 12, 1998 (the "Effective Date"), is entered into between American Builders & Contractors Supply Co., Inc., a Delaware corporation, successor-in-interest by merger to American Builders & Contractors Supply Co., Inc., a Texas corporation (the "Borrower"), and NationsBank, N.A., successor in interest by merger to NationsBank of Texas, N.A., as agent (in such capacity, the "Agent") for the lenders (the "Lenders") from time to time parties to the Loan Agreement identified below:

W I T N E S S E T H

WHEREAS, the Borrower and the Agent are parties to the certain Amended and Restated Patent, Trademark and License Mortgage dated as of July 1, 1993, filed in the trademark records of the United States Patent and Trademark Office on July 12, 1993, at Reel 1002, Frame 0378, as amended by the certain First Amendment to Amended and Restated Patent, Trademark and License Mortgage dated effective as of February 8, 1996, filed in the trademark records of the United States Patent and Trademark Office on September 9, 1996, at Reel 1501, Frame 0001 (collectively the "Mortgage");

WHEREAS, the Mortgage secures certain obligations and indebtedness of the Borrower arising under the certain Amended and Restated Loan and Security Agreement dated as of July 1, 1993, among the Borrower, the Agent and the Lenders from time to time party thereto, as the same has been amended from time to time (collectively, the "Existing Loan Agreement");

WHEREAS, concurrently herewith the Existing Loan Agreement has been amended and restated pursuant to the certain Second Amended and Restated Loan and Security Agreement dated as of May 12, 1998 among the Borrower, Agent and the Lenders the "Loan and Security Agreement";

WHEREAS, the Borrower and the Agent have agreed to amend the Mortgage as provided hereinbelow;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, and of any loans or financial accommodations heretofore, now or hereafter made to or for the benefit of the Borrower by the Lenders, the parties hereto agree as follows (all terms defined in the Restated Loan Agreement and not otherwise defined herein, wherever used in this Agreement, shall have the meanings ascribed to such terms in the Loan and Security Agreement):

1. Amendment to Certain Defined Terms. The following defined terms used in the Mortgage hereby are amended as follows:

(a) Any and all references in the Mortgage to the "Mortgagor" shall be deemed to mean American Builders & Contractors Supply Co., Inc., a Delaware corporation;

(b) Any and all references in the Mortgage to the "Mortgagee" shall be deemed to mean NationsBank, N.A., successor by merger to NationsBank of Texas, N.A., in its capacity as Agent under the Loan and Security Agreement.

(c) Any and all references to the "Loan and Security Agreement" shall be deemed to mean the Second Amended and Restated Loan and Security Agreement dated May 12, 1998 among Borrower, Agent, American National Bank and Trust Company of Chicago, as co-agent, and the Lenders from time to time party thereto;

(d) Any and all references in the Mortgage to the "Liabilities" shall be deemed to mean all "Liabilities" as defined by the Loan and Security Agreement (as amended) (which includes, without limitation, renewal of all "Liabilities" as defined by the Existing Loan Agreement).

(c) Exhibit B and Exhibit C are amended and restated in their entireties as set forth on Exhibit B and Exhibit C, respectively, attached hereto.

2. Representations and Warranties of Borrower. The Borrower hereby represents and warrants that as of the date of this Amendment the representations and warranties of the Borrower contained in the Mortgage are true and correct on and as of the date hereof to the same extent as though made on and as of the date hereof (except to the extent any such representations or warranties relate to a specific date), and all Exhibits attached to the Mortgage (as amended) remain true, correct and complete.

3. Reference to and Effect on the Mortgage. Except as expressly provided herein, the Mortgage shall remain unmodified and in full force and effect and is hereby ratified and confirmed. The execution, delivery and effectiveness of this Amendment shall not operate as a waiver or forbearance of (a) any right, power or remedy of the Agent or the Lenders under the Mortgage, or (b) any Default or Event of Default. This Amendment shall constitute a Financing Agreement. All references in any of the Financing Agreements, other than this Amendment, to the Mortgage shall be deemed to refer to the Mortgage as modified by this Amendment.

4. Fees, Costs and Expenses. The Borrower agrees to pay on demand all costs and expenses of the Lenders and the Agent in connection with the preparation, execution, delivery and filing of this Amendment, including the fees and out-of-pocket expenses of counsel for the Lenders and the Agent with respect thereto.

5. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto as separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, when taken together, shall constitute but one and the same agreement.

6. Effectiveness. This Amendment shall be deemed effective as of the Effective Date specified in the preamble upon execution by the Borrower and the Agent

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first written above.

ATTEST:

AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.

By: [Signature]
Name: Scott A. Blumhain
Title: Tax Director

By: [Signature]
Name: KENDRA A. STORY - TREASURER
Title: CFO / Treas

NATIONSBANK, N.A.
In its capacity as Agent for the Lenders

By: _____
Name: _____
Title: _____

Address for Notice:

901 Main Street, 6th Floor
Dallas, Texas 75202
Attention: Business Credit/Regional Manager: URGENT

STATE OF ~~TEXAS~~ ^{Wisconsin} §
COUNTY OF Rock §

Subscribed and sworn to before me, the undersigned notary public, on the 18th day of May, 1998, by Kendra A. Story, the C.F.O./Treas of American Builders & Contractors Supply Co., Inc., a Delaware corporation, for and on behalf of said corporation.

[SEAL]

Craig J. Drake
Notary Public in and for
The State of ~~Texas~~ ^{Wisconsin}

My Commission Expires: April 18, 1999

STATE OF TEXAS §
COUNTY OF _____ §

Subscribed and sworn to before me, the undersigned notary public, on the ____ day of May, 1998, by _____, the _____ of NationsBank, N.A., a national banking association, for and on behalf of said banking association.

[SEAL]

Notary Public in and for
The State of Texas

My Commission Expires: _____

6. Effectiveness. This Amendment shall be deemed effective as of the Effective Date specified in the preamble upon execution by the Borrower and the Agent

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first written above.

ATTEST:

AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

NATIONSBANK, N.A.
In its capacity as Agent for the Lenders

By: Virginia H. Brown
Name: VIRGINIA H. BROWN
Title: SVP

Address for Notice:

901 Main Street, 6th Floor
Dallas, Texas 75202
Attention: Business Credit/Regional Manager: URGENT

STATE OF TEXAS §
 §
COUNTY OF _____ §

Subscribed and sworn to before me, the undersigned notary public, on the ____ day of May, 1998, by _____, the _____ of American Builders & Contractors Supply Co., Inc., a Delaware corporation, for and on behalf of said corporation.

[SEAL]

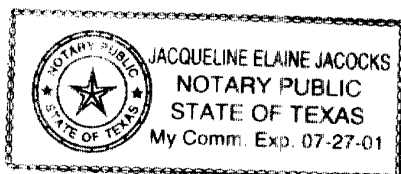
Notary Public in and for
The State of Texas

My Commission Expires: _____

STATE OF TEXAS §
 §
COUNTY OF Wallace §

Subscribed and sworn to before me, the undersigned notary public, on the 18th day of May, 1998, by Virginia N. Brown, the Senior Vice President of NationsBank, N.A., a national banking association, for and on behalf of said banking association.

[SEAL]



Jacqueline E. Jacocks
Notary Public in and for
The State of Texas

My Commission Expires: 7-27-01

EXHIBIT B

Trademarks and Trademark Registrations

<u>Federal Service Mark/Trademark Registration</u>	<u>Number</u>	<u>Registration Date</u>
American Builders & Contractors Supply Co., Inc.	1,376,499 (Supplemental Register)	December 17, 1985
ABC Supply Co., Inc.	1,394,477	May 20, 1986
ABC Supply Co., Inc.	1,920,520	September 15, 1995
ABC Supply Co., Inc. (logo)	1,927,906	October 17, 1995
Gordon Metal Company	1,798,479	October 12, 1993

Unregistered Trademarks

Construction Trade Tools

EXHIBIT C

License Agreements

<u>Trademark</u>	<u>Description</u>
"Viking"	5 year license to use granted by Viking Building Products Co., Inc. (commencing 5/19/97)
"Mule-Hide"	Serial number 233,815 licensed to Mule-Hide Products Co., Inc.
"Mule-Hide"	Serial number 443,599 licensed to Mule-Hide Products Co., Inc.
Mule-Hide Products "Not a Kick in a Million Feet"	Serial number 1,700,566 licensed to Mule-Hide Products Co., Inc.
Mule-Hide Products "Not a Kick in a Million Feet"	Serial number 1,737,851 licensed to Mule-Hide Products Co., Inc.
	Roofing Membrane Securement System Patent (license) U.S. No. 4,727,699