

10-16-1998

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ER SHEET

ONLY

100853443 01 FC:481

10-8-98

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

1. Name of conveying party(ies):

Robertex Associates, Inc

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

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other

Execution Date: December 1, 1997

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

Name: Mohawk Carpet Corporation

Internal Address:

Street Address: 160 South Industrial Blvd.

City: Calhoun State: GA Zip: 30701

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Delaware
- Other

If assignee is not domiciled in the United States, a domestic representative designation is attached Yes No (Designations must be separate from assignment)

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

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,341,038

10/13/1998 SBURNS 00000057 500363 1341038
01 FC:481 40.00 CH

Additional numbers attached? Yes No

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

Name: Suzanne W. Alcocer, Esq.

Internal Address:

Legal Department
Mohawk Carpet Corporation

Street Address:

160 South Industrial Blvd.

City: Calhoun

State: Georgia

Zip: 30701

6. Total number of applications and registrations involved: 1

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

Enclosed

Authorized to be charged to deposit account

Account # 500363

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

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.

SALVATORE J. PERILLO
Name of Person Signing

ASST. SECRETARY
MOHAWK CARPET CORPORATION

Signature

10/16/98
Date

Total number of pages comprising cover sheet: 1

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

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

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

Public burden reporting for this sample cover sheet is estimated to average about document to be recorded, including time for reviewing the document and gather completing and reviewing the sample cover sheet. Send comments regarding U.S. Patent and Trademark office, Office of Information Systems, PK2-100C and to the Office of Management and Budget, Paperwork Reduction Project, D.C. 20503.

ASSIGNMENT AGREEMENT

This agreement (the "Agreement") is made and entered into this 1st day of December, 1997 (the "Effective Date"), by and between Robertex Associates, Inc., a Georgia corporation, having a principal place of business at Suite #4, 2595 Mountain Industrial Boulevard, Tucker, Georgia 30084 ("Robertex") and Mohawk Carpet Corporation, a Delaware corporation, having an office and principal place of business at 1755 The Exchange, Atlanta, Georgia 30339 ("Mohawk");

WITNESSETH:

WHEREAS, Robertex owns the trademark FLOORSCAPES which it uses to identify carpeting, a registration of such mark for such goods on the Principal Register of the United States Patent and Trademark Office, the same being Registration Number 1,341,038, and the good will of its business symbolized by such mark (collectively, the "Mark");

WHEREAS, Mohawk desires to acquire such Mark from Robertex and Robertex desires to assign the same to Mohawk;

NOW, THEREFORE, for and in consideration of the premises, covenants, representations and warranties hereinafter set forth, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the parties agree as follows:

1. Assignment.

1.1 Robertex hereby assigns to Mohawk all worldwide rights, title and interests in and to the trademark FLOORSCAPES, together with the good will of its business symbolized thereby, and its United States Trademark Registration for such mark, the same being Registration Number 1,341,038, filed August 31, 1984.

1.2 Contemporaneously with its execution of this agreement, Robertex shall cause its President or another officer of Robertex to execute the original of that assignment, a true and correct copy of which is attached as Exhibit A and which is hereby incorporated herein and made a part hereof, and shall deliver such executed assignment to Mohawk on receipt of the \$15,000.00

payment by Mohawk in accordance with the terms and conditions of paragraph 2 hereof.

2. Compensation. Contemporaneously with the execution of this Agreement, Mohawk shall pay to Robertex the amount of \$15,000.00.

3. Third Party Infringement. Robertex shall notify Mohawk of any violations of Mohawk's right, title or interest in the Mark of which Robertex has knowledge or becomes aware of in the future.

4. Warranties, Representations and Covenants. Robertex represents and warrants to Mohawk that:

4.1 Robertex is a corporation duly organized, validly existing and in good standing under the laws of the State of Georgia.

4.2 Robertex has full corporate authority to execute this Agreement. This Agreement and the terms and conditions hereof have been duly authorized by all requisite corporate authority and will not result in a violation of any of the provisions of Robertex's corporate charter, bylaws or any agreement to which Robertex may be a party.

4.3 Robertex is the owner of the Mark, no other person or entity has any security interest in the Mark or any registration thereof, there have been no prior assignments of the Mark or any registration thereof, and the complete name and address of any and all entities licensed to use the Mark are set forth in the attached Exhibit B.

4.4 Any and all licenses granted by Robertex, if any, have been or will be terminated before the Effective Date.

4.5 The Mark has been used by Robertex without the receipt or knowledge of any claims of infringement or demands for cessation of use from third parties, and Robertex has not

abandoned its use of the Mark.

4.6 There are no actions, suits, claims or proceedings pending or, to Robertex's knowledge, threatened against Robertex in any court or before any governmental agency which might have an adverse affect on the Mark or the Product identified by the Mark. Robertex is not subject to any order, writ, injunction or decree of any court or governmental agency which would prevent or impede the assignment of the Mark, or which has created or would create a lien thereon, or would affect or interfere with Mohawk's use thereof after the Effective Date, or Mohawk's rights therein. Robertex agrees to indemnify and hold Mohawk harmless for any demands, claims, actions or damages regarding or arising from the Mark.

4.7 Registration Number 1,341,038 is the only registration of the Mark filed by Robertex anywhere in the world and, except as set forth on Exhibit C, Robertex has no knowledge or notice of any use, registration or application to register the Mark anywhere in the world.

4.8 On or before the Effective Date, Robertex has ceased any and all use of the Mark. Robertex agrees and covenants that it will not adopt, use, file any application to register or register the Mark or any variant thereof in the United States or anywhere in the world in the future.

4.9 Robertex agrees to indemnify and hold harmless from any demands, claims, actions or damages regarding or arising out of a breach of the warranties and representations contained herein.

5. Product Responsibility. Robertex retains all responsibility for products manufactured for or by it. Robertex acknowledges and understands that Mohawk, as a result of its execution of this Agreement, assumes no duty or responsibility and consequently has no liability to Robertex or any third party with respect to any product liability, personal injury or other similar claim arising out of Robertex's production, sale or distribution of any products, and the use of any products produced by or for Robertex under the Mark. Robertex

agrees to indemnify and hold harmless Mohawk from any demands, claims, actions or damages regarding or arising out of any Robertex products.

6. Breach of Agreement. Immediately following the execution of this Agreement by the parties and payment of \$15,000.00 by Mohawk in accordance with paragraph 2 hereof, if either party breaches any term of this Agreement, the other party shall notify such party in writing of such breach and such party shall have thirty (30) days after the date of its receipt of such notice within which to cure its breach. If such breach is not cured within said thirty (30) day period, the other party may, at its option, sue to enjoin such breach, sue for damages resulting from such breach, terminate this Agreement, or exercise all such remedies. In the event that such suit is instituted, the breaching party shall be obligated to reimburse the nonbreaching party for its reasonable attorneys' fees and court costs incurred. The provisions of this paragraph are in addition to and not in limitation of those rights, remedies and duties provided elsewhere in this Agreement and by Law.

7. Miscellaneous.

7.1 Severability. Should any part or provision of this Agreement be held unenforceable or in conflict with the law of any jurisdiction, the validity of the remaining parts or provisions will not be affected by such holding.

7.2 Applicable Law. The validity and effect of this Agreement is governed by and construed in accordance with the laws of the State of Georgia.

7.3 Notice. Whenever this Agreement permits or requires that notice be given, such notice must be in writing and is deemed given when actually received or five (5) days after having been deposited in the United States Mail, registered or certified, return receipt requested, postage prepaid, and addressed:

If to Robertex, to:

Robert P. Rothman, President
Robertex Associates, Inc.
Suite #4
2595 Mountain Industrial Boulevard
Tucker, Georgia 30084

If to Mohawk, to:

Salvatore Perillo, Esq.
General Counsel
Mohawk Carpet Corporation
1755 The Exchange
Atlanta, Georgia 30339

or to such other address as either party shall designate in a notice to the other given as provided herein.

7.4 Successors. All the provisions hereof bind and inure to the benefit of Mohawk and its successors, assigns, and representatives and to Robertex and its successors, assigns, and representatives, and the affiliates of the parties. "Affiliate" of a party shall mean a corporation or other business entity controlling, controlled by, or under common control with that party. For this purpose, control of a corporation or other business entity shall mean direct or indirect beneficial ownership of at least fifty percent (50%) of the voting or income interest in such corporation or other business entity.

7.5 Headings. Paragraph headings included in this Agreement are for convenience only and are not to affect the consideration of or be taken into consideration in interpreting this Agreement.

7.6 Waiver or Modification. No change or modification of this Agreement will be valid or binding on the parties, nor will any waiver of any term or condition be deemed a waiver of any such term or condition in the future, unless such change, modification or waiver is in

writing and signed by the parties.

7.7 Entire Agreement. This Agreement contains the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior negotiations, representations or agreements, whether written or oral.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date.

ATTEST:

ROBERTEX ASSOCIATES, INC.


Secretary

By: 
Robert P. Rothman, President

[CORPORATE SEAL]

ATTEST:

MOHAWK CARPET CORPORATION

Secretary

By: _____
David L. Kolb,
Chief Executive Officer

[CORPORATE SEAL]

EXHIBIT A

ASSIGNMENT AGREEMENT

WHEREAS, ROBERTEX ASSOCIATES, INC., of Suite #4, 2595 Mountain Industrial Boulevard, Tucker, Georgia 30084, has adopted, used, and is using a mark registered in the United States Patent and Trademark Office, Registration Number 1,341,038, filed on August 31, 1984; and

WHEREAS, MOHAWK CARPET CORPORATION, of 1755 The Exchange, Atlanta, Georgia 30339, is desirous of acquiring said mark and the registration thereof;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, said ROBERTEX ASSOCIATES, INC. does hereby assign unto the said MOHAWK CARPET CORPORATION all right, title and interest in and to the said mark, together with the good will of the business symbolized by the mark, and the registration thereof, Registration Number 1,341,038.

ROBERTEX ASSOCIATES, INC.

By: _____
Robert P. Rothman, President

[CORPORATE SEAL]

EXHIBIT B

LICENSES TO FLOORSCAPES MARK

None.

EXHIBIT C

USE, REGISTRATION OR APPLICATION TO REGISTER MARK

Floorscapes, Inc.
23562 Porter Circle
Laguna Niguel, California 92677

EXHIBIT A


ASSIGNMENT AGREEMENT

WHEREAS, ROBERTEX ASSOCIATES, INC., of Suite #4, 2595 Mountain Industrial Boulevard, Tucker, Georgia 30084, has adopted, used, and is using a mark registered in the United States Patent and Trademark Office, Registration Number 1,341,038, filed on August 31, 1984; and

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ROBERTEX ASSOCIATES, INC.

By: 
Robert P. Rothman, President

[CORPORATE SEAL]