

10-30-2000

FORM PTO-1504 (Rev. 6-93) OMB No. 0851-0011 (exp. 4/94)

RECORDS TR



U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

Tab settings

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

1. Name of conveying party(ies): Packerware Corporation, Cardinal Packaging, Inc., Knight Plastics, Inc., Poly-Seal Corporation

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

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

3. Nature of conveyance:

- Assignment, Security Agreement, Other, Merger, Change of Name

Execution Date: July 14, 2000

2. Name and address of receiving party(ies)

Name: Bank of America, N.A. Internal Address: Bank of America Business Credit Street Address: 100 South Charles Street, 4th Floor City: Baltimore State: MD ZIP: 21201

- Individual(s) citizenship, 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

4. Application number(s) or patent number

A. Trademark Application No.(s)



09-11-2000

U.S. Patent & TMO/TM Mail Rpt. Dt. #40

I. Trademark Registration No.(s)

See Attached Schedule A

Additional numbers attached? Yes No

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

Name: Laura Snyder Runyeon Internal Address: Miles & Stockbridge Street Address: 10 Light Street City: Baltimore State: MD ZIP: 21201

6. Total number of applications and registrations involved: 21

7. Total fee (37 CFR 3.41) \$ 540

- Enclosed, Authorized to be charged to deposit account

8. Deposit account number: 20-0052

(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.

Signature of Laura Snyder Runyeon Name of Person Signing

Signature of Laura Snyder Runyeon

Date 8/7/00

Total number of pages including cover sheet, attachments, and document: 11

Mail documents to be recorded with required cover sheet information to: Commissioner of Patents & Trademarks, Box Assignments Washington, D.C. 20231

LIST OF TRADEMARKS**PackerWare Corporation**

<u>Registration No.</u>	<u>Serial No.</u>	<u>Trademark</u>	<u>Goods</u>
2,279,910	75-364,864	CAMPUS WEST	Plastic dinnerware
1,737,656	74-161,929	CASUAL ELEGANCE	Plastic dinnerware
1,812,941	74,302,235	EZ BORDER	Nonmetal stakes and brackets for landscape edging
2,272,841	75-312,764	FUN FROSTS	Plastic dinnerware
2,168,546	75-225,323	IT'S WHAT YOU LIKE	Plastic dinnerware, plastic cups, plastic buckets and plastic flower pots and planters
2,143,201	75-055,539	PACKER STACKER	Drinking mugs
1,235,737	73-353,872	PACKER WARE	Plastic household containers, namely, food storage containers, plant pots, drinking glasses and cups and plates
2,302,500	75-297,879	POUR IN THE PROFITS	Plastic drinkware, namely, plastic cups for fountain soft drinks
2,139,800	75-224,623	SUMMERWARE	Plastic dinnerware
1,785,585	74-155,302	Design only	Paper plate holder
2,018,559	74-184,924	Design only	Plastic pitchers for institutional, domestic or household use

2.064,130	75-055,540	Design only	Plastic household containers, namely, food storage containers, plant pots, drinking glasses, cups, plates and bowls
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Cardinal Packaging, Inc.

<u>Registration No.</u>	<u>Serial No.</u>	<u>Trademark</u>	<u>Goods</u>
1.618,828	74-011,389	SECUR-A-TEAR	Plastic containers for commercial use
2.207,385	74-644,458	SQROUND	Plastic containers for commercial use

Knight Plastics, Inc.

<u>Registration No.</u>	<u>Serial No.</u>	<u>Trademark</u>	<u>Goods</u>
1.660,244	74-07,078	KNIGHT ENGINEERING & PLASTICS	Custom manufacture for others of plastic caps for use as overcaps on aerosol containers and for custom molding of closures and spouts for containers

Poly-Seal Corporation

<u>Registration No.</u>	<u>Serial No.</u>	<u>Trademark</u>	<u>Goods</u>
2.254,218	75-309,762	ACCU-FLO	Packaging components, namely, non-metal bottle closures
2.224,712	75-251,124	EM-PRESS	Packaging components, namely, non-metal bottle closures in various sizes
1,406,744	73-410,060	POLY-SEAL	Container, closures, containers and applicators for containers made of plastic

1,282,514	73-411,964	PS	Container closures, containers and applicators for containers made of plastic
Application	75-259,445	LITETOUCH	Packaging components, namely, non-metal bottle closures
Application	75-275,237	POLYSEAL COCOON	Environmental services in the nature of the micro/macro encapsulation, namely, a chemical or other material treatment process of hazardous, toxic and radioactive wastes for long-term storage and/or disposal

FIRST AMENDMENT TO AMENDED AND RESTATED
COLLATERAL ASSIGNMENT OF TRADEMARKS AS SECURITY

THIS FIRST AMENDMENT TO AMENDED AND RESTATED COLLATERAL ASSIGNMENT OF TRADEMARKS AS SECURITY (this "Amendment") is made effective as of the ~~14th~~ day of July, 2000, by and among PACKERWARE CORPORATION, a corporation organized and existing under the laws of the State of Delaware ("PackerWare"), CARDINAL PACKAGING, INC., a corporation organized and existing under the laws of the State of Ohio ("Cardinal"), KNIGHT PLASTICS, INC., a corporation organized and existing under the laws of the State of Delaware ("Knight"), and POLY-SEAL CORPORATION, a corporation organized and existing under the laws of the State of Delaware ("Poly-Seal") (PackerWare, Cardinal, Knight and Poly-Seal are herein collectively referred to as the "Assignors" and individually as an "Assignor"), and BANK OF AMERICA, N. A., a national banking association, in its capacity as both collateral agent for itself, the "BofA Lenders", the "GE Agent" and the "GE Lenders" (as those terms are hereinafter defined) (the "Collateral Agent"); Witnesseth:

RECITALS

A. BANK OF AMERICA, N.A., a national banking association ("Bank of America"), FLEET CAPITAL CORPORATION, a corporation organized and existing under the laws of the State of Rhode Island ("Fleet"), GENERAL ELECTRIC CAPITAL CORPORATION, a corporation organized and existing under the laws of the State of New York ("GE Capital"), HELLER FINANCIAL, INC., a corporation organized and existing under the laws of the State of Delaware ("Heller"), PNC BANK, NATIONAL ASSOCIATION, a national banking association ("PNC"), and LASALLE BUSINESS CREDIT, INC., a corporation organized and existing under the laws of the State of Delaware ("LaSalle") (collectively, the "BofA Lenders" and individually, a "BofA Lender"); GENERAL ELECTRIC CAPITAL CORPORATION, a corporation organized and existing under the laws of the State of New York, as documentation agent; BANK OF AMERICA, N. A., a national banking association, in its capacity as both collateral and administrative agent for the BofA Lenders and as lead arranger (the "BofA Agent"); BERRY PLASTICS CORPORATION, a corporation organized and existing under the laws of the State of Delaware (the "Borrower"), NIM HOLDINGS LIMITED, a company organized and existing under the laws of England and Wales ("NIM Holdings"), and BERRY PLASTICS UK LIMITED, a company organized and existing under the laws of England and Wales ("Berry UK") are parties to that certain Third Amended and Restated Financing and Security Agreement dated as of May 9, 2000, as amended by that certain First Amendment to Third Amended and Restated Financing and Security Agreement dated the date hereof (as further amended, restated, supplemented or otherwise modified, the "BofA Financing Agreement"). Under and subject to the provisions of the BofA Financing Agreement, the BofA Lenders agreed to establish in favor of the Borrower, Berry UK and NIM Holdings certain revolving credit, letter of credit and term loan facilities. All capitalized terms used herein but not specifically defined herein shall have the meanings given such terms in the BofA Financing Agreement.

B. The "Obligations" as defined in the BofA Financing Agreement (herein referred to as the "BofA Obligations") are secured by, among other things, that certain Amended and Restated

Collateral Assignment of Trademarks as Security dated as of May 9, 2000 from the Assignors in favor of the BofA Agent (as amended, restated, supplemented or otherwise modified, the "Trademark Security Agreement"). The Trademark Security Agreement is one of the "Financing Documents" (as defined in the BofA Financing Agreement and referred to herein as the "BofA Financing Documents").

C. The Borrower has applied to GE Capital for a term loan in a principal amount up to, but not exceeding, Twenty-five Million Dollars (\$25,000,000 (the "GE Term Loan"). GE Capital has agreed to make the GE Term Loan to the Borrower in accordance with and subject to the terms and conditions of that certain Loan and Security Agreement dated the date hereof by and among the Borrower, GE Capital, in its capacity as a lender, and GE Capital, in its capacity as an agent (the "GE Agent") (as amended, restated, supplemented or otherwise modified, the "GE Financing Agreement"). The GE Agent and the "Lenders" as defined in the GE Financing Agreement (herein referred to as the "GE Lenders") have required that the "Obligations" as defined in the GE Financing Agreement (herein referred to as the "GE Obligations") be secured by a second priority Lien on, and assignment of, all of each Assignor's rights, title and interest in, to and under the "Trademarks" (as defined in the Trademark Security Agreement) and the goodwill of the business associated therewith (the "Trademark Collateral"). The "Financing Documents" as defined in the GE Financing Agreement are herein referred to as the "GE Financing Documents".

D. The Assignors and the Collateral Agent desire to amend the Trademark Security Agreement to provide that GE Obligations be secured by a second priority Lien on, and assignment of, the Trademark Collateral; the Lien and assignment securing the GE Obligations shall in all respects be junior and subordinate to the Lien and pledge securing the BofA Obligations. The BofA Agent, the BofA Lenders, the GE Agent, the GE Lenders and the Assignors, among others, have entered into an Intercreditor Agreement dated as of the date hereof (as amended, restated, supplemented or otherwise modified, the "Intercreditor Agreement"), which Intercreditor Agreement governs, among other things, the respective Lien priorities of the Collateral Agent for the benefit of the BofA Agent, the BofA Lenders, the GE Agent and the GE Lenders.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Assignors and the Collateral Agent hereby agree as follows:

1. Each Assignor hereby acknowledges and agrees that the recitals set forth above are true and accurate in each and every respect and are incorporated herein by reference. The representations and warranties of the Assignors contained among the provisions of the Trademark Security Agreement are true and correct as of the date of this Amendment (except that any such representations and warranties that are not qualified as to materiality need only be true and correct in all material respects) with the same effect as though such representations and warranties had been made as of such date, except that the representations and warranties which relate to a specific date need only be true and correct as of such date.

2. The Trademark Security Agreement is hereby amended as follows:

(a) The Trademark Security Agreement is hereby amended to provide that the Trademark Collateral secures all of the BofA Obligations and the GE Obligations; accordingly, all references to "Obligations" as used in the Trademark Security Agreement shall mean and include all of the BofA Obligations and the GE Obligations. The BofA Obligations shall be secured by a senior priority grant, security interest and assignment of the Trademark Collateral; the GE Obligations shall be secured by a junior and subordinate priority grant, security interest and assignment of the Trademark Collateral. Subject to the terms of the Intercreditor Agreement, any and all proceeds or other payments to or for the benefit of the Collateral Agent under the Trademark Security Agreement shall be applied first to the payment of the BofA Obligations, including any and all Enforcement Costs, in accordance with the terms of the BofA Financing Agreement; the balance, if any shall be applied to payment of the GE Obligations in accordance with the terms of the GE Financing Agreement.

(b) The BofA Agent under the Trademark Security Agreement is the "Agent" as defined in the Trademark Security Agreement and in such capacity is the collateral agent for the BofA Agent, the BofA Lenders, the GE Agent and the GE Lenders (the "Collateral Agent"). All references to "Agent" in the Trademark Security Agreement are hereby amended to refer to "Collateral Agent". The Assignors agree that effective immediately on the "BofA Termination Date" (as defined in the Intercreditor Agreement), and upon the request of the GE Agent, the GE Agent shall succeed the BofA Agent as the Collateral Agent under the Trademark Security Agreement without further notice to, or consent or agreement of, the Assignors or any other Person. Notwithstanding the foregoing, if at any time any payment, or portion thereof, made by, or for the account of, the Borrower, any Assignor or any other Person on account of any of the BofA Obligations is set aside by any court or trustee having jurisdiction as a voidable preference or fraudulent conveyance or must otherwise be restored or returned by the BofA Agent and/or any of the BofA Lenders to the Borrower, any Assignor or to any other Person under any insolvency, bankruptcy or other federal and/or state laws or as a result of any dissolution, liquidation or reorganization of the Borrower, any Assignor or such other Person or upon, or as a result of, the appointment of any receiver, intervenor or conservator of, or trustee, or similar officer for, the Borrower, such Assignor or such Person or any substantial part of its or their properties or assets, the parties hereto agree that the BofA Agent shall be reinstated and shall continue as the Collateral Agent under the Trademark Security Agreement all as though such payment(s) had not been made.

(c) The terms and conditions of the Trademark Security Agreement are subject to the terms and conditions of the Intercreditor Agreement; and, in the event there is any express conflict between the terms and conditions of the Trademark Security Agreement and the terms and conditions of the Intercreditor Agreement, the terms and conditions of the Intercreditor Agreement shall control.

3. The terms "this Assignment" as used in the Trademark Security Agreement and any and all references to the Trademark Security Agreement in the BofA Financing Agreement, any of the BofA Financing Documents, the GE Financing Agreement and/or any of the GE Financing Documents shall mean the Trademark Security Agreement as modified herein unless the context clearly indicates or dictates a contrary meaning.

4. This Amendment may not be amended, changed, modified, altered or terminated without in each instance the prior written consent of the Collateral Agent and the Assignors. This Amendment shall be construed in accordance with, and governed by, the laws of the State of Maryland.

5. The Assignors agree that neither the execution and delivery of this Amendment nor any of the terms, provisions, covenants, or agreements contained in this Amendment shall in any manner release, impair, lessen, waive, or otherwise adversely affect the liability and obligations of the Assignors under the terms of the Trademark Security Agreement.

6. This Amendment may be executed in any number of duplicate originals or counterparts, each of such duplicate originals or counterparts shall be deemed to be an original and all taken together shall constitute but one and the same instrument. The parties agree that their respective signatures may be delivered by facsimile. Any party who chooses to deliver its signature by facsimile agrees to provide a counterpart of this Amendment with its inked signature promptly to each other party.


[Signatures Appear on Following Page]

IN WITNESS WHEREOF, the Assignors and the Collateral Agent have caused this Amendment to be executed under seal as of the date first above written.

WITNESS:

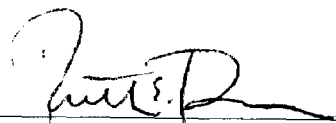
BANK OF AMERICA, N.A.,
in its capacity as Collateral Agent

Wm J. Karsmuth

By:  (Seal)
David B. Thayer
Senior Vice President

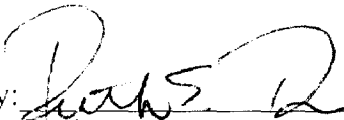
WITNESS OR ATTEST:

PACKERWARE CORPORATION

By:  (SEAL)
Ruth E. Richmond
Assistant Secretary


WITNESS OR ATTEST:

KNIGHT PLASTICS, INC.

By:  (SEAL)
Ruth E. Richmond
Assistant Secretary

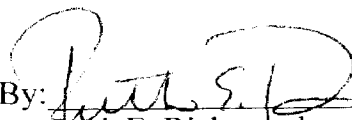
WITNESS OR ATTEST:

CARDINAL PACKAGING, INC.

By:  (SEAL)
Ruth E. Richmond
Assistant Secretary

WITNESS OR ATTEST:

POLY-SEAL CORPORATION

By:  (SEAL)
Ruth E. Richmond
Assistant Secretary

LIST OF TRADEMARKSPackerWare Corporation

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