

04-20-2001



101681895

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

New

Resubmission (Non-Recordation)
Document ID # _____

Correction of PTO Error
Reel # _____ Frame # _____

Corrective Document
Reel # 002172 Frame # 0032

MRT 3.26.01

Conveyance Type

Assignment License

Security Agreement Nunc Pro Tunc Assignment
Effective Date
Month Day Year _____

Merger

Change of Name

Other Correction of Co-Existence Agreement

Conveying Party

Mark if additional names of conveying parties attached

Name Gibraltar National Corporation Execution Date
Month Day Year 08292000

Formerly _____

Individual General Partnership Limited Partnership Corporation Association

Other _____

Citizenship/State of Incorporation/Organization Michigan

Receiving Party

Mark if additional names of receiving parties attached 75743333

Name Tamms Industries, Inc.

DBA/AKA/TA _____

Composed of _____

Address (line 1) 3835 State Rt. 72

Address (line 2) _____

Address (line 3) Kirkland IL 60146
City State/Country Zip Code

Individual General Partnership Limited Partnership Corporation Association

Other _____

Citizenship/State of Incorporation/Organization Delaware

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

FOR OFFICE USE ONLY

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

TRADEMARK
REEL: 002275 FRAME: 0631

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)			Registration Number(s)		
<input type="text" value="75743333"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1994053"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

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. Charges to deposit account are authorized, as indicated herein.

Mark T. Koerner

Name of Person Signing

Signature

05/28/2001

Date Signed

01/05/2001

700003482
700003482

FORM PTO-1618A
Expires 06/30/98
OMB 0601-0627

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

RECORDATION FORM COVER SHEET
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TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
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Reel # _____ Frame # _____
- Corrective Document
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Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
Effective Date
Month Day Year
08290000
- Merger
- Change of Name
- Other Co-Existence Agreement

Conveying Party

Mark if additional names of conveying parties attached

Name Gibraltar National Corporation

Execution Date
Month Day Year
08290000

Formerly _____

- Individual General Partnership Limited Partnership Corporation Association
- Other _____
- Citizenship/State of Incorporation/Organization Michigan

Receiving Party

Mark if additional names of receiving parties attached

Name Tanze Industries, Inc.

DBA/AKA/TA _____

Composed of _____

Address (line 1) 3835 State Route 72

Address (line 2) _____

Address (line 3) kirkland

City

IL

State/Country

60146

Zip Code

- Individual General Partnership Limited Partnership Corporation Association
- Other _____
- Citizenship/State of Incorporation/Organization Illinois

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

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

FORM PTO-1618B

Page 2

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

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Trademark Application Number(s)

Registration Number(s)

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes No

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. Charges to deposit account are authorized, as indicated herein.

Mark T. Koerner

Name of Person Signing

Signature

01/05/01

Date Signed

CO-EXISTENCE AGREEMENT

This Agreement is entered into this 29th day of August, 2000, by and between Gibraltar National Corporation, a Michigan Corporation, doing business at 8951 Schefer, Building 4, Detroit Michigan, 48228-2515, (referred to hereafter as "Gibraltar"), and Tamms Industries, Inc., an Illinois corporation, doing business at 3835 State Route 72, Kirkland, IL 60146 (referred to hereafter as "Tamms").

Whereas, Tamms has used the trademark RAPID ROCK, a copy of which is attached at Exhibit A, for "Rapid-setting cementitious grout" that has been sold industrially since at least 1961 and has filed with the U.S. Patent and Trademark Office Application Serial No. 75/743333 to register RAPID ROCK for "rapid-setting cementitious grout" in International class 019. Since 1961, there has been no evidence of actual confusion between Application Serial No. 75/743333 and U.S. Reg. No. 1994053; and

Whereas, Gibraltar is the owner of U.S. Reg. No. 1994053 as shown at Exhibit B for "fast setting cement for anchoring fence posts" in International Class 019; and

Whereas, the parties believe that given the different presentations of their respective RAPID ROCK marks, the difference in the goods, channels of trade, advertising and end consumers, their marks can continue to peacefully co-exist with respect to use and registration and wish to confirm this in writing.

NOW, THEREFORE, for consideration which is hereby acknowledged, the parties agree as follows:

1. Gibraltar consents to the use and registration of RAPID ROCK for "rapid-setting cementitious grout" in International Class 019.
2. Tamms will not seek to cancel U.S. Registration number 1994053 of RAPID ROCK in International class 019.

3. Each party reserves the right to change the stylized look of its respective RAPID ROCK mark provided that its new presentation is not the same as the stylized presentation being used by the other party, it being agreed that the RAPID ROCK marks of the respective parties shown at Exhibits A and B are distinct from one another, for purposes of this Agreement. Both parties agree that they will not use their respective marks to sell products similar to those products listed in the other party's above referenced filing with the Trademark Office.

4. In the event that the parties learn of any instances of actual confusion, they will work together and take necessary steps to minimize such confusion.

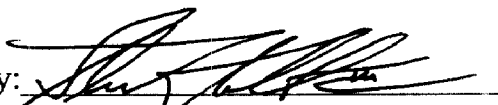
5. The geographic scope of this Agreement is limited to the United States and its territories.


6. This Agreement is binding on all successors, assigns, licensees, subsidiaries and divisions of the parties.

7. This agreement constitutes the entire agreement and understanding between the parties and cannot be amended without an understanding between the parties and cannot be amended without a writing duly signed by authorized officials of the parties.

Gibraltar National Corporation

Tamms Industries, Inc.

By: 
Name: Steve Klochko, III
Title: President
Date: August 29, 2000

By: 
Name: M. Thomas McCall
Title: President
Date: Sept. 11, 2000



RAPID ROCK

**FAST SETTING, POURABLE GROUT
SETS IN 15 MINUTES**

4 - 10 lb Containers

WARRANTIES: Seller warrants that the Products do not infringe upon any copyright, patent, or trademark or trade secret, nor violate the proprietary information rights of any third party. Seller warrants that its Products will conform to and perform in accordance with the Products' specifications. **THE FOREGOING WARRANTIES ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THOSE CONCERNING MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. LIMITATION ON LIABILITIES:** Because of the difficulty of ascertaining and measuring damages hereunder, it is agreed that, except for claims for bodily injury, Seller's liability to the Buyer or any third party, for any losses or damages, whether direct or otherwise, arising out of the purchase of Product from Seller by Buyer shall not exceed the total amount billed and billable to the Buyer for the Product hereunder. In no event will Seller be liable for any loss of profits or other special or consequential damages, even if Seller has been advised of the possibility of such damages.

TL1558 ©1988 Tamms Industries Co.

Another Fine Product of



TAMMS INDUSTRIES CO.

1229 Aldmore Ave. Itasca, Illinois 60143 312-773-2250
5741 East Santa Ana, Ontario, CA 91761 714-866-7667
710 Cassin Avenue, Wilkes Barre, PA 18702 717-822-2181
Telex: 810 651 2165 Tamms Ind Usa
FAX: 312-773-1470

EXHIBIT B

Thank you for your request. Here are the latest results from the TARR web server.

Serial Number: 74570862

Registration Number: 1994053

Mark (words only): RAPID ROCK

Current Status: Registered.

Date of Status: 1996-08-13

Filing Date: 1994-09-07

Registration Date: 1996-08-13

Law Office Assigned: TMEG Law Office 108

CURRENT APPLICANT(S)/OWNER(S)

I. Gibraltar National Corporation

GOODS AND/OR SERVICES

fast setting cement for anchoring fence posts

PROSECUTION HISTORY

1996-08-13 - REGISTERED-PRINCIPAL REGISTER

1996-06-05 - ALLOWED PRINCIPAL REGISTER - SOU ACCEPTED

1996-06-04 - ASSIGNED TO EXAMINER

1996-05-29 - STATEMENT OF USE PROCESSING COMPLETE

1996-03-12 - USE AMENDMENT FILED

1996-03-10 - EXTENSION 1 GRANTED

1996-03-04 - EXTENSION 1 FILED

1995-09-05 - NOTICE OF ALLOWANCE-MAILED

1995-06-13 - PUBLISHED FOR OPPOSITION

1995-05-12 - NOTICE OF PUBLICATION

1995-03-21 - APPROVED FOR PUB - PRINCIPAL REGISTER

1995-03-15 - EXAMINERS AMENDMENT MAILED

1995-03-08 - ASSIGNED TO EXAMINER

CONTACT INFORMATION

Attorney of Record: Charles R. Rutherford

Address:

Charles R. Rutherford
DYKEMA GOSSETT PLLC
1577 NORTH WOODWARD AVENUE
SUITE 300
BLOOMFIELD HILLS, MI 48304-2820
US

March 23, 2001

Julia N. Studier
Paralegal
312 261 2410
Fax 312 261 1410
jstudier@pedersenhaupt.com

Assignment Division
Commissioner of Patents and Trademarks
Office of Public Records
Washington, D.C. 20231

Re: Correction of Co-Existence Agreement of Registered Trademark No. 19994053

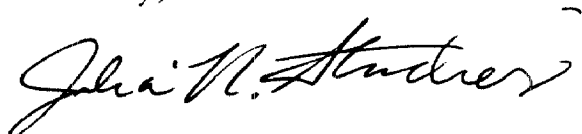
Ladies and Gentlemen:

Enclosed are a revised Recordation Form Cover Sheet correcting the Trademark Registration Number, a photocopy of the Notice of Recordation, recorded original Recordation Form Cover Sheet, and a photocopy of the supporting document, the Co-Existence Agreement between Gibraltar National Corporation and Tamms Industries, Inc.

This Co-Existence Agreement was recorded by your office on January 5, 2001. Recently, it came to our attention that Trademark Registration No. 1994053 was incorrectly entered on the Recordation Form Cover Sheet by our office as Trademark Registration No. "1990453."

If you have any questions, please call me collect at 312 261 2410.

Sincerely,



Julia N. Studier

Enclosures

JSTUDIER 302576 v1 March 23, 2001



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
 ASSISTANT SECRETARY AND COMMISSIONER
 OF PATENTS AND TRADEMARKS
 Washington, D.C. 20231

JANUARY 09, 2001

PTAS

MARK T. KOERNER
 161 NORTH CLARK STREET
 SUITE 3100
 CHICAGO, IL 60601-3224

700003482A

700003482A

UNITED STATES PATENT AND TRADEMARK OFFICE
 NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT

THE ENCLOSED DOCUMENT HAS BEEN RECORDED BY THE ASSIGNMENT DIVISION OF THE U.S. PATENT AND TRADEMARK OFFICE. A COMPLETE MICROFILM COPY IS AVAILABLE AT THE ASSIGNMENT SEARCH ROOM ON THE REEL AND FRAME NUMBER REFERENCED BELOW.

PLEASE REVIEW ALL INFORMATION CONTAINED ON THIS NOTICE. THE INFORMATION CONTAINED ON THIS RECORDATION NOTICE REFLECTS THE DATA PRESENT IN THE PATENT AND TRADEMARK ASSIGNMENT SYSTEM. IF YOU SHOULD FIND ANY ERRORS OR HAVE QUESTIONS CONCERNING THIS NOTICE, YOU MAY CONTACT THE EMPLOYEE WHOSE NAME APPEARS ON THIS NOTICE AT 703-308-9723. PLEASE SEND REQUEST FOR CORRECTION TO: U.S. PATENT AND TRADEMARK OFFICE, ASSIGNMENT DIVISION, BOX ASSIGNMENTS, CG-4, 1213 JEFFERSON DAVIS HWY, SUITE 320, WASHINGTON, D.C. 20231.

RECORDATION DATE: 01/05/2001

REEL/FRAME: 002172/0032
NUMBER OF PAGES: 7

BRIEF: CO-EXISTENCE AGREEMENT

ASSIGNOR:

GIBRALTAR NATIONAL CORPORATION

DOC DATE: 08/29/2000
CITIZENSHIP: MICHIGAN
ENTITY: CORPORATION

ASSIGNEE:

TAMMS INDUSTRIES, INC.
3835 STATE ROUTE 72
KIRKLAND, ILLINOIS 60146CITIZENSHIP: ILLINOIS
ENTITY: CORPORATIONAPPLICATION NUMBER: 75743333
REGISTRATION NUMBER:FILING DATE: 07/06/1999
ISSUE DATE:

MARK: RAPID ROCK

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

002172/0032 PAGE 2

APPLICATION NUMBER: 74606633
REGISTRATION NUMBER: 1990453

FILING DATE: 12/05/1994
ISSUE DATE: 07/30/1996

MARK: DONUT CONNECTION

DRAWING TYPE: WORDS, LETTERS, OR NUMBERS IN TYPED FORM

JEEVON JONES, EXAMINER
ASSIGNMENT DIVISION
OFFICE OF PUBLIC RECORDS

Facsimile Transmission

*This company uses RightFAX® fax
server software from RightFAX, Inc.*

From: Name: USPTO ASSIGNMENT DIVISION
Fax Number:
Voice Phone: 703-308-9723

To: Name: MARK T. KOERNER
Company: 161 NORTH CLARK STREET
Fax Number: 13126416895
Voice Phone:

Fax Notes:

Pg#	Description
1	Cover Page
2	418.TXT
4	Document 1, Batch 203914

PTAS FAX PROCESSING

Date and time of transmission: Tuesday, January 09, 2001 4:15:02 PM
Number of pages including this cover sheet: 05

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- Assignment
- License
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- Nunc Pro Tunc Assignment
- Merger
- Change of Name
- Other

Effective Date
Month Day Year

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

- Individual
- General Partnership
- Limited Partnership
- Corporation
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Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

312 261 2227

Name

Mark T. Koerner

Address (line 1)

161 North Clark Street

Address (line 2)

Suite 3100

Address (line 3)

Chicago, IL 60601-3224

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

5

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

75743333

1990453

Number of Properties

Enter the total number of properties involved.

#

2

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

65.00

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

500276

Authorization to charge additional fees:

Yes

No

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. Charges to deposit account are authorized, as indicated herein.

Mark T. Koerner



01/05/01

Name of Person Signing

Signature

Date Signed