

08-12-2002



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

102185505 TRADEMARK ONLY

U.S. DEPARTMENT OF COMMERCE U.S. 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):

Bank of America, N.A.

07.29.02

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

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

2. Name and address of receiving party(ies)

Name: Cardinal Packaging, Inc.

Internal Address:

Street Address: 101 Oakley Street

City: Evansville State: IN Zip: 47710

- 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 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 of Security Interest in Trademarks

Execution Date: July 18, 2002

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,618,828 2,207,385

Additional number(s) attached Yes No

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

Name: Patrice A. King, Esq.

Internal Address: GOODWIN PROCTER LLP

Street Address: Seven Becker Farm Road

City: Roseland State: NJ Zip: 07068

6. Total number of applications and registrations involved: 2

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

- Enclosed Authorized to be charged to deposit account

8. Deposit account number: 06-0923

(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.

Patrice A. King, Esq.

Name of Person Signing

Signature

July 29, 2002

Date

Total number of pages including cover sheet, attachments, and document: 10

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

08/13/2002 BTOM11 00000082 060923 1618828

01 FC:481 40.00 CH 02 FC:482 25.00 CH

TRADEMARK REEL: 002560 FRAME: 0320

## TERMINATION, RELEASE AND DISCHARGE OF SECURITY INTEREST IN TRADEMARKS

This TERMINATION, RELEASE AND DISCHARGE OF SECURITY INTEREST IN TRADEMARKS (the "**Release**") is made and entered into as of July 22, 2002, by BANK OF AMERICA, N.A., formerly known as NationsBank, N.A., a national banking association, as collateral agent for itself, the Lenders and the GE Agent (as such terms are defined below) (in such capacity, the "**Collateral Agent**") for the benefit of PACKERWARE CORPORATION, a Delaware corporation ("**PackerWare**"), CARDINAL PACKAGING, INC., an Ohio corporation ("**Cardinal**"), KNIGHT PLASTICS, INC., a Delaware corporation ("**Knight**") and POLY-SEAL CORPORATION, a Delaware corporation ("**Poly-Seal**") (PackerWare, Cardinal, Knight and Poly-Seal are herein collectively referred to as the "**Assignors**").

Reference is made in this Release to: (i) that certain Third Amended and Restated Financing and Security Agreement dated as of May 9, 2000, as amended by (A) that certain First Amendment to Third Amended and Restated Financing and Security Agreement dated as of July 14, 2000, (B) that certain Second Amendment to Third Amended and Restated Financing and Security Agreement dated as of September 6, 2000 and (C) that certain Third Amendment to Third Amended and Restated Financing and Security Agreement dated as of May 14, 2001 (as amended, restated, supplemented or otherwise modified, the "**BofA Loan Agreement**"), by and among Berry Plastics Corporation ("**BPC**"), NIM Holdings Limited and Berry Plastics UK Limited as borrowers, certain lenders party to the BofA Loan Agreement from time to time as lenders, General Electric Capital Corporation ("**GECC**") as documentation agent and Bank of America, N.A. ("**Bank of America**") as both collateral and administrative agent for the lenders thereunder and as lead arranger; and (ii) that certain Loan and Security Agreement dated as of July 14, 2000, as amended by that certain First Amendment to Loan and Security Agreement dated as of May 14, 2001 (as amended, restated, supplemented or otherwise modified, the "**GE Loan Agreement**"), by and among BPC as borrower, certain lenders party to the GE Loan Agreement from time to time as lenders, GECC as administrative agent for the lenders thereunder (in such capacity, the "**GE Agent**") and Bank of America as collateral agent for the lenders thereunder. The indebtedness represented by the BofA Loan Agreement and the GE Loan Agreement is referred to in this Release collectively as the "**Secured Obligations.**" The lenders under the BofA Loan Agreement and the GE Loan Agreement are referred to in this Release collectively as the "**Lenders.**"

### RECITALS

A. To secure payment of the Secured Obligations, the Assignors pledged to the Collateral Agent, among other things, the collateral described in that certain Amended, Restated and Consolidated Collateral Assignment of Trademarks as Security dated as of May 9, 2000 by the Assignors in favor of the Bank of America as agent for itself and the lenders thereunder, recorded with the United States Patent and Trade Office on May 22, 2000 in Reel 002089, Frame 0536, as amended by that certain First Amendment to Amended and Restated Collateral Assignment of Trademarks as Security dated as of July 14, 2000 by and among Assignors and Bank of America in its capacity as both collateral agent for itself, the GE Agent

and the lenders thereunder, recorded with the United States Patent and Trade Office on Sept. 11, 2000 in Reel 002163, Frame 0513 (as amended, the "**Collateral Assignment**").

B. As of the date hereof, pursuant to (i) a Pay-Out Agreement dated July 18, 2002 among BPC, Bank of America and Goldman Sachs Credit Partners L.P., as Administrative Agent under the New Facility (as such terms are defined therein) (the "**BofA Pay-Out Agreement**"), and (ii) a Pay-Out Agreement dated July 18, 2002 among BPC, GECC and Goldman Sachs Credit Partners L.P., as Administrative Agent under the New Facility (as such terms are defined therein) (the "**GECC Pay-Out Agreement**") (the BofA Pay-Out Agreement and the GECC Pay-Out Agreement are herein collectively referred to as the "**Pay-Out Agreements**"), all of the Secured Obligations have been paid in full, and Bank of America and GECC have agreed to release all of their respective security interests, liens and any and all similar interests created as security for the Secured Obligations, including security interests, liens and any and all similar interests created pursuant to the Collateral Assignment and any other security or other interest in the property described in Exhibit A to the Collateral Assignment which was previously granted to the Collateral Agent.

**NOW, THEREFORE**, in consideration of the provisions and covenants set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Collateral Agent, as collateral agent for and on behalf of itself, the Lenders and the GE Agent hereby agrees as follows:

1. Release of Security Interests. Effective as of the date first above written, the Collateral Agent hereby irrevocably and forever terminates, releases and discharges from any and all interests and obligations of the Assignors to the Collateral Agent, the GE Agent and the Lenders pursuant to the Collateral Assignment and any other security or other interest in the property described in Exhibit A to the Collateral Assignment which was previously granted to the Collateral Agent, and forever terminates, releases and discharges any and all security interests in, and any pledge of or lien upon, and, to the extent that the Collateral Agent owns any rights therein, assigns to the Assignors its entire right, title and interest in any and all Trademarks and Trademark Collateral (as such terms are defined in the Collateral Assignment) of the Assignors or any of their subsidiaries and/or affiliates identified on Exhibit A attached hereto and incorporated herein by this reference, including without limitation, any and all trademark applications, service mark applications, trademark registrations, service mark registrations, trade names, brands and trade dress therefor, together with all the goodwill of the Assignor or any of its subsidiaries and/or affiliates associated with and represented by the Trademarks and Trademark Collateral, and the right (but not the obligation) to sue for past, present and future infringements, and the proceeds thereof, including without limitation, license royalties and proceeds of infringement suits and all rights corresponding thereto throughout the world; and declares null and void all liens, security interests, assignments and any and all similar interests of the Collateral Agent, the GE Agent and the Lenders arising from the Collateral Assignment and any other security or other similar interest in the property described in Exhibit A to the Collateral Assignment which was previously granted to the Collateral Agent, and any prior assignments of Trademarks and Trademark Collateral by the Assignors or any of their subsidiaries and/or affiliates to the Collateral Agent, or the Collateral Agent's predecessor in interest, NationsBank, N.A, a national banking association.

2. Worldwide Scope of Release. By this Release, the Collateral Agent intends to and hereby does terminate, release, discharge or otherwise eliminate any and all rights, titles and interests, in any jurisdiction anywhere in the world, of the Collateral Agent, the GE Agent and/or the Lenders in and to any and all Trademarks and Trademark Collateral of the Assignors or any of their subsidiaries and/or affiliates under the Collateral Assignment identified on Exhibit A attached hereto and incorporated herein by this reference, and any other security or other interest in the property described in Exhibit A to the Collateral Assignment which was previously granted to the Collateral Agent, including without limitation any and all trademark applications, service mark applications, trademark registrations, service mark registrations, trade names, brands and trade dress, together with all the goodwill of the Assignor or any of its subsidiaries and/or affiliates associated with and represented by the Trademarks and Trademark Collateral, and the right (but not the obligation) to sue for past, present and future infringements, and the proceeds thereof, including without limitation, license royalties and proceeds of infringement suits and all rights corresponding thereto throughout the world; and declares null and void all liens, security interests, assignments and any and all similar interests of the Collateral Agent, the GE Agent and the Lenders arising from the Collateral Assignment and any other security or other similar interest in the property described in Exhibit A to the Collateral Assignment which was previously granted to the Collateral Agent, and any prior assignments of Trademarks and Trademark Collateral by the Assignors or any of their subsidiaries and/or affiliates to the Collateral Agent, or the Collateral Agent's predecessor in interest, NationsBank, N.A, a national banking association.

3. Recordation of Release. The Collateral Agent understands and agrees that this Release may be recorded by or for the Assignors or any of their subsidiaries and/or affiliates with the United States Patent and Trademark Office and with any other similar agency, office or authority in any jurisdiction anywhere in the world.

4. Further Actions. Pursuant to the terms and conditions of the Pay-Out Agreements, the Collateral Agent further agrees, at the Assignors' expense, to execute any other documents and take any further action reasonably necessary in any state, country or jurisdiction anywhere in the world that the Assignors or any of their subsidiaries and/or affiliates or any third party with a valid security interest in the Trademarks and Trademark Collateral may reasonably require to effect the intent and purpose of this Release.

*[The remainder of this page has been intentionally left blank.]*

IN WITNESS WHEREOF, the Collateral Agent has executed this Termination, Release and Discharge of Security Interests in Trademarks as of the date first set forth above.

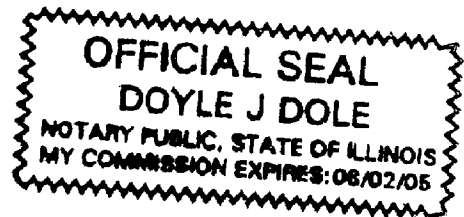
BANK OF AMERICA, N.A., as collateral agent  
for and on behalf of itself, the Lenders and the GE  
Agent

By: *Dan Petrik*  
Name: DAN PETRIK  
Title: VICE PRESIDENT

STATE OF :  
COUNTY OF : SS

The foregoing instrument was acknowledged before me this 18 day of July, 2002, by Dan Petrik, the V.P. of Bank of America, N.A., formerly NationsBank, N.A., a national banking association, on behalf of the association.

*Doyle J. Dole*  
Notary Public  
My Commission Expires:



**Exhibit A**

See Attached

## SCHEDULE A

LIST OF TRADEMARKSPackerWare 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<br>ELEGANCE     | Plastic dinnerware  |
| 1.812.941               | 74.302.235        | EZ BORDER              | Nonmetal stakes and<br>brackets for landscape<br>edging   |
| 2.272.841               | 75-312.764        | FUN FROSTS             | Plastic dinnerware  |
| 2.168.546               | 75-225.323        | IT'S WHAT<br>YOU LIKE  | Plastic dinnerware, plastic<br>cups, plastic buckets and<br>plastic flower pots and<br>planters                             |
| 2.143.201               | 75-055.539        | PACKER<br>STACKER      | Drinking mugs   |
| 1.235.737               | 73-353.872        | PACKER WARE            | Plastic household containers,<br>namely, food storage<br>containers, plant pots,<br>drinking glasses and cups and<br>plates |
| 2.302.500               | 75-297.879        | POUR IN THE<br>PROFITS | Plastic drinkware, namely,<br>plastic cups for fountain<br>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<br>institutional, domestic or<br>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 |
|-----------|------------|-------------|---|

**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<br>ENGINEERING<br>& 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<br>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 |