

08-21-2002



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

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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.

W20 8-19-02

1. Name of conveying party(ies):

Builders Plumbing & Heating Supply Co.

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: 07/31/02

2. Name and address of receiving party(ies)

Name: LaSalle National Bank Association

Internal Address: Suite 1126

Street Address: 135 South LaSalle Street

City: Chicago State: IL Zip: 60603

- Individual(s) citizenship Association 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

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

A. Trademark Application No.(s) 75576645

B. Trademark Registration No.(s) 2285595 867893

Additional number(s) attached Yes No

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

Name: Aaron Zarkowsky

Internal Address: Deutsch, Levy & Engel

Street Address: 225 West Washington Street

Suite 1700

City: Chicago State: IL Zip: 60606

6. Total number of applications and registrations involved:

3

7. Total fee (37 CFR 3.41): \$ 90.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

DBYRNE 00000018 75576645 Steve Kogan 40.00 DP Name of Person Signing DP

Signature

7/31/02

Date

11

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

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

08/21/2002 01 FC:481 02 FC:482

## TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement, dated as of July 31, 2002 (this "Agreement"), is by and among **BUILDERS PLUMBING & HEATING SUPPLY CO.**, an Illinois corporation ("**Builders**"), **KITCHEN DISTRIBUTORS OF AMERICA, INC.**, an Illinois corporation ("**KDA**"), **SPESCO, INC.**, an Illinois corporation ("**SPESCO**"), **GLENDALE PLUMBING SUPPLY CO., INC.**, a Wisconsin corporation ("**Glendale**"), **SOUTHWEST PIPE & SUPPLY, INC.**, a Delaware corporation ("**Southwest**"), **3801 RACINE BUILDING CORP.**, an Illinois corporation ("**3801**"), and **ADDISON BUILDING CO.**, an Illinois general partnership ("**Addison**") each in their individual capacities as grantor (the "**Borrowers**"), and LaSalle Bank National Association, a national banking association, as agent (in such capacity, the "Agent") for the Lenders (as defined below).

### PRELIMINARY STATEMENTS:

1. The Borrowers, the financial institutions that are or may from time to time become parties thereto, as lenders (collectively, the "Lenders"), and the Agent have entered into the Credit Agreement dated as of July 31, 2002 (as amended, restated, supplemented or otherwise modified from time to time, the "Credit Agreement"), under which the Lenders have agreed, on certain terms and subject to certain conditions, to make loans and other extensions of credit to the Borrowers.

2. Under the Pledge and Security Agreement, dated as of July 31, 2002 (the "Security Agreement"), between the Borrowers, as grantors, and the Agent, the Borrowers granted the Agent a security interest in substantially all of the Borrowers' assets.

3. It is a condition precedent to the initial advances under the Credit Agreement that the Borrowers execute this Agreement in favor of the Agent.

### AGREEMENT:

In consideration of the foregoing and the mutual agreements contained in this Agreement and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties to this Agreement agree as follows:

1. Definitions. Capitalized terms used in this Agreement and not otherwise defined have the meanings assigned to such terms in the Credit Agreement.

2. Grant of Security Interest. To secure its liabilities and obligations under the Credit Agreement and the other Loan Documents, the Borrowers mortgage and pledge to the Agent for the benefit of the Lenders and grants the Agent for the benefit of the Lenders a security interest in all of the Borrowers' right, title and interest in, to and under (i) each trademark, trademark application and trademark license and service mark license listed on the attached Schedules I, II and III, including, without limitation, all proceeds of such trademarks, trademark applications and trademark licenses and service mark licenses (including, without limitation, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding to such trademarks, trademark applications and trademark licenses and service mark licenses throughout the world and all re-issues, extensions and renewals of such trademarks, trademark applications and trademark licenses and service mark licenses (collectively, the "Trademarks") and (ii) the goodwill of the business connected with the use of, and symbolized by, each Trademark. Until an Event of Default occurs, the Borrowers retain its rights in the Trademarks and may use and possess the Trademarks until such time.

Chicago:141172.3

3. Representations and Warranties. The Borrowers jointly and severally represent and warrant that, from and after the date of this Agreement, (i) the Trademarks listed on Schedule I and II include all of the Trademark now owned or held by the Borrowers, (ii) the trademark licenses and service mark licenses listed on Schedule III include all of the trademark license agreements and service mark licenses under which any Borrower is the licensee or licensor and (iii) no Liens, claims or encumbrances in such Trademarks have been granted by the Borrowers to any Person or asserted by any Person against the Borrowers other than the Agent, except for Liens permitted under Section 6.15 of the Credit Agreement.

4. New Trademarks. If, prior to the termination of this Agreement, any Borrower (i) obtains rights to any new Trademarks, (ii) becomes entitled to the benefit of any Trademarks, whether as licensee or licensor or (iii) enters into any new trademark license agreement or service mark license agreement, the provisions of Section 2 automatically apply thereto. The Borrowers will give to the Agent written notice of events described in clauses (i)-(iii) above promptly after the occurrence thereof, but in any event not less frequently than on a quarterly basis. The Borrowers authorize the Agent to modify this Agreement unilaterally (a) by amending Schedule I or II to include any future Trademarks and by amending Schedule III to include any future trademark license agreements or service mark license agreements and (b) by filing, in addition to and not in substitution for this Agreement, a duplicate original of this Agreement containing on Schedule I, II or III thereto, as the case may be, such future Trademarks.

5. Remedies. The Borrowers and the Agent further acknowledge and affirm that the rights and remedies of the Agent after the occurrence of an Event of Default with respect to the assignment of and security interest in the Trademarks made and granted by this Agreement are more fully set forth in the Credit Agreement and the Security Agreement, the terms and provisions of which are incorporated in this Agreement by reference.

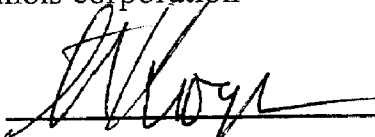
6. Termination. Following the termination of the Credit Agreement in accordance with its terms, upon the request (and at the expense) of the Borrowers, the Trademarks and any and all financing statements filed on behalf of the Agent will be automatically reassigned to the applicable Borrower or terminated, and the Agent will execute such instruments as may be reasonably requested to evidence such reassignment or termination in accordance with the terms set forth in the Credit Agreement.

\* \* \* \* \*

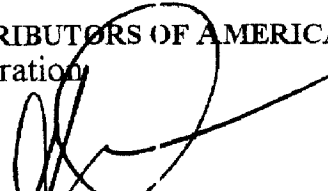
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**BORROWERS:**

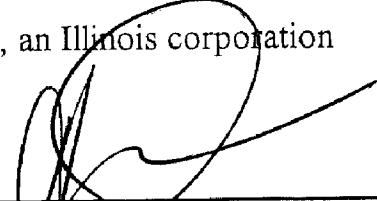
**BUILDERS PLUMBING & HEATING SUPPLY CO.,** an Illinois corporation

By:   
\_\_\_\_\_  
Its: Steve Kogan  
President

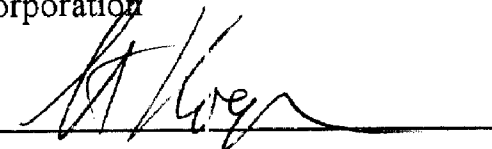
**KITCHEN DISTRIBUTORS OF AMERICA, INC.,** an Illinois corporation

By:   
\_\_\_\_\_  
Its: Harvey Kogan  
President

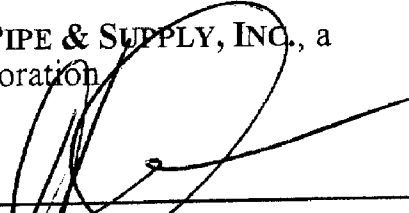
**SPESCO, INC.,** an Illinois corporation

By:   
\_\_\_\_\_  
Its: Harvey Kogan  
Vice President


**GLENDALE PLUMBING SUPPLY CO., INC.,** a Wisconsin corporation

By:   
\_\_\_\_\_  
Its: Steve Kogan  
President


**SOUTHWEST PIPE & SUPPLY, INC.,** a Delaware corporation

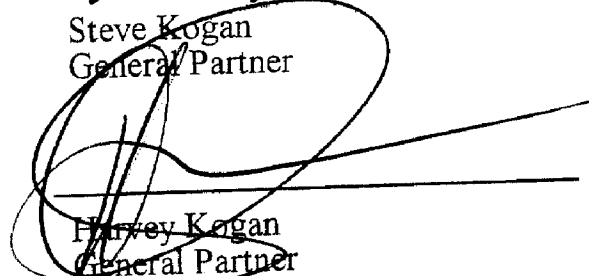
By:   
\_\_\_\_\_  
Its: Harvey Kogan  
President

**3801 RACINE BUILDING CORPORATION,** an Illinois Corporation

By:   
\_\_\_\_\_  
Its: Steve Kogan  
President

**ADDISON BUILDING CO.,** an Illinois General Partnership

By:   
\_\_\_\_\_  
Its: Steve Kogan  
General Partner

By:   
\_\_\_\_\_  
Its: Harvey Kogan  
General Partner

Chicago:141172.3

Accepted and agreed to as of the day and year  
first above written.

LASALLE BANK NATIONAL  
ASSOCIATION, as Agent

By: Kyle Freindl  
Title: Vice President

Chicago:141172.3

**TRADEMARK**  
**REEL: 002566 FRAME: 0156**

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Steve Kogan, a President of **BUILDERS PLUMBING & HEATING SUPPLY CO.**, on behalf of said Borrower.



Jeffrey B. Horwitz  
Notary Public  
My commission expires: 6/17/06

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Harvey Kogan, a President of **KITCHEN DISTRIBUTORS OF AMERICA, INC.**, on behalf of said Borrower.



Jeffrey B. Horwitz  
Notary Public  
My commission expires: 6/17/06

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Harvey Kogan, a President of **SPESCO, INC.**, on behalf of said Borrower.

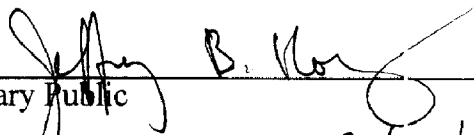


Jeffrey B. Horwitz  
Notary Public  
My commission expires: 6/17/06

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Steve Kogan, a President of **GLENDAL PLUMBING SUPPLY CO., INC.**, on behalf of said Borrower.

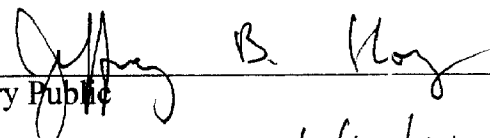


  
\_\_\_\_\_  
Notary Public  
My commission expires: 6/17/06

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

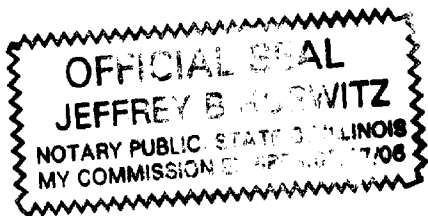
The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Harvey Kogan, a President of **SOUTHWEST PIPE & SUPPLY, INC.**, on behalf of said Borrower.

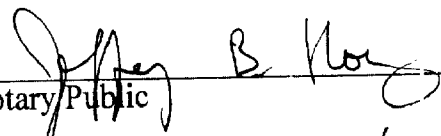


  
\_\_\_\_\_  
Notary Public  
My commission expires: 6/17/06

STATE OF ILLINOIS )  
 ) SS  
COUNTY OF COOK )

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Steve Kogan, a President of **3801 BUILDING CORPORATION**, on behalf of said Borrower.



  
\_\_\_\_\_  
Notary Public  
My commission expires: 6/17/06

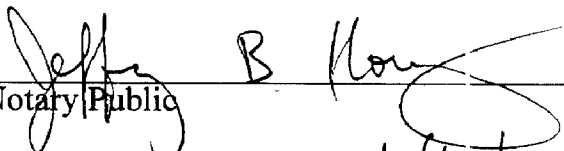
STATE OF ILLINOIS

COUNTY OF COOK

)  
) SS  
)

The foregoing instrument was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Steve Kogan and Harvey Kogan, general partners of **ADDISON BUILDING CO.**, on behalf of said Borrower.



  
\_\_\_\_\_  
Notary Public  
My commission expires: 6/17/06

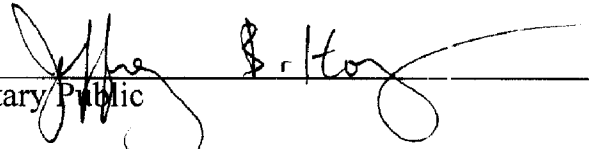
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TRADEMARK  
REEL: 002566 FRAME: 0159



STATE OF: ILLINOIS )  
 ) SS  
COUNTY OF: COOK )

The foregoing Trademark Security Agreement was acknowledged before me this 31<sup>st</sup> day of July, 2002, by Kyle Freimuth, the Vice President of LaSalle Bank National Association, a national banking association, on behalf of such bank.

  
\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Chicago:141172.3

SCHEDULE I  
Registered Trademarks

<u>Trademark</u>	<u>Registration Number</u>	<u>Date</u>
B Design	2285595	October 12, 1999
Watchman and Design	0867893	April 8, 1969

Chicago:141172.3

**TRADEMARK**  
**REEL: 002566 FRAME: 0161**

SCHEDULE II

Trademarks Pending

Trademark

Application Number

Date

Tradeselect

75/576645

October 27, 1998

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SCHEDULE III

Trademark Licenses; Service Mark Licenses

None

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