

10-01-2002

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



102237592

T 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):

Brockway Standard, Inc.

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

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

## 3. Nature of conveyance:

- ☐ Assignment ☐ Merger  
☐ Security Agreement ☐ Change of Name  
☒ Other nunc pro tunc

Effective Date: 9-18-1997  
 Execution Date: July 9, 2002

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

Name: Bway Corporation

Internal Address: Suite 250

Street Address: 8607 Roberts Drive

City: Atlanta State: GA Zip: 30350

- ☐ Individual(s) citizenship  
☐ Association

☐ General Partnership JUL 9 2002

☐ 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

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,778,648

Additional number(s) attached ☐ Yes ☒ No

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

Name:

Internal Address: Kirkland &amp; Ellis

Street Address: 200 East Randolph Drive

Suite 5300

City: Chicago State: IL Zip: 60601

## 6. Total number of applications and registrations involved: 1

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

- ☐ Enclosed  
☒ Authorized to be charged to deposit account

## 8. Deposit account number:

22-0440

(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.

Edward G. Lance IV

Name of Person Signing

00000220 220440 1778648

Signature

Date

12

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

40.00 CH

TRADEMARK

REEL: 002591 FRAME: 0167

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**Registrant:** BROCKWAY STANDARD, INC.  
**Reg. No.:** 1,778,648  
**Reg. Date:** June 29, 1993  
**Mark:** MONOTOP  
**Class:** 6

**AFFIDAVIT OF KEVIN KERN**

1. I, Kevin Kern, am an officer of BWAY Manufacturing, Inc. (a Delaware Corporation). I am over 18 years of age, have personal knowledge of the facts set forth herein and could competently testify to them if called upon to do so. I have been employed at BWAY Manufacturing, Inc. and its parent corporation, BWAY Corporation, since 1995.

2. BWAY Corporation is the parent corporation of BWAY Manufacturing Inc., a Delaware corporation, which was formerly known as Brockway Standard (New Jersey), Inc. (a Delaware corporation). BWAY Corporation was the parent corporation of Brockway Standard, Inc. (a Delaware corporation) until Brockway Standard, Inc. was merged with and into Brockway Standard (New Jersey), Inc., as discussed in paragraph 8 below.

3. On June 17, 1992, Ellisco, Inc. filed an application to register MONOTOP. Ellisco, Inc. listed Maryland as its state of incorporation on the application.

4. Pursuant to a March 4, 1993 Assignment, Ellisco, Inc. assigned the mark and trademark application to Brockway Standard, Inc. (a Delaware corporation) (See Ex. A attached) The state of incorporation for Ellisco, Inc. was identified incorrectly as Pennsylvania on both the Assignment and the Recordation Cover Sheet. The state of incorporation for Ellisco, Inc. should have been listed as Maryland. We recorded this inaccurate Assignment and Recordation Cover Sheet on March 11, 1993, reel 0940, frame 0298.

5. Pursuant to an August 27, 1993 Amended and Restated Assignment of Trademark, Ellisco, Inc. assigned the application, now matured into a registration, to Brockway Standard, Inc. (a Delaware corporation). Once again, we incorrectly identified the state of incorporation for Ellisco, Inc. as Pennsylvania instead of Maryland. To correct the state of incorporation, we will file an affidavit explaining the error, a new Recordation Cover Sheet, and a copy of the two previously-recorded Assignments, with the Assignment Division. (See Ex. B attached)

6. On June 17, 1999, we filed a Combined Declaration under Sections 8 and 15 for the MONOTOP mark, identifying BWAY Corporation as the registrant.

7. On May 1, 2000, we filed a change of name document with the Assignment Division recording the name change of Brockway Standard Holdings Corporation to BWAY Corporation. The restated certificate of incorporation filed with the Assignment Division shows the effective date of the name change as February 23, 1996.

8. On September 14, 2000, Brockway Standard, Inc. (a Delaware corporation) merged with and into Brockway Standard (New Jersey), Inc. (a Delaware corporation). Brockway Standard (New Jersey), Inc. was the surviving corporation. On September 14, 2000, immediately after the merger, the surviving corporation, Brockway Standard (New Jersey), Inc., changed its name to BWAY Manufacturing, Inc. (See Ex. C attached)

9. We have filed with the Assignment Division a *nunc pro tunc* assignment and Recordation Cover Sheet, with an effective date of September 18, 1997, pursuant to which Brockway Standard, Inc. (now BWAY Manufacturing, Inc. as a result of the aforementioned merger and name change) assigned the mark to BWAY Corporation, the proper owner and registrant of the MONOTOP mark. (See Ex. D attached)

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 9<sup>th</sup> day of July 2002.

BWAY MANUFACTURING, INC.

  
Name: Kevin Kern  
Title: Vice President

FORM PTO-1006  
1-2-92RECORDATION FORM COVER SHEET  
**TRADEMARKS ONLY**U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Tab settings 000

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D

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

## 1. Name of conveying party(ies):



- ☐ Association  
☐ General Partnership  
☒ Corporation-State Pennsylvania  
☐ Other

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

## 2. Nature of conveyance:

- ☒ Assignment  
☐ Security Agreement  
☐ Other
- ☐ Merger  
☐ Change of Name

Execution Date: March 4, 1993

## 3. Name and address of receiving party(ies):

Name: Brockway Standard Inc.

Internal Address:

Street Address: 8607 Roberts Road

City: Atlanta State: GA ZIP: 30305

☐ Individual(s) citizenship☐ Association☐ General Partnership☐ Limited Partnership☒ Corporation-State Delaware☐ OtherIf 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)

74/285666

## B. Trademark registration No.(s)

Additional numbers attached? ☐ Yes ☒ No

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

Name: Neil S. Hirshman

Internal Address: Kirkland &amp; Ellis

Street Address: 200 E. Randolph Dr.

City: Chicago State: IL ZIP: 60601

## 6. Total number of applications and registrations involved:

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

☒ Enclosed☐ Authorized to be charged to deposit account

## 8. Deposit account number:

22-0440

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

DO NOT USE THIS SPACE

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40.00 CK

## 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.

Neil S. Hirshman

Name of Person Signing

Neil Hirshman

Signature

3/8/93

Date

89136109

TRADEMARK

REEL: 002591 FRAME: 0170

**ASSIGNMENT OF TRADEMARK**

WHEREAS, Ellisco Inc., a Pennsylvania corporation, having its principal place of business at Three Bala Plaza, Bala Cynwyd, Pennsylvania 19004 (hereafter referred to as "Assignor") has adopted and used "Monotop" as a trademark (the "Mark"). "Monotop" is currently the subject of a pending Federal trademark application and is expected to be registered in that the Examiner indicated in her Official Action that there are no conflicting registrations.

WHEREAS, Brockway Standard Inc., a Delaware corporation, having a principal place of business in Atlanta, Georgia ("Assignee") is desirous of acquiring said Mark.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor assigns to Assignee all of Assignor's right, title and interest in the Mark, application serial number 74/285-666 and any registration resulting from such application, together with the goodwill of the business symbolized by such Mark, all goodwill associated therewith, all licenses and sublicenses granted and obtained by Seller with respect thereto, if any, all of Seller's rights and remedies against infringement thereof and Seller's rights to protection of interests therein under the laws of all jurisdictions.

[Corporate Seal] **RECORDED  
& TRADEMARK OFFICE**

**MAR 11 93**

Ellisco Inc.

By: Charles E. Foster  
Charles E. Foster, President

TRADEMARK

REEL 940 FRAME 299

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF PHILADELPHIA ) ss.:

On this 4th day of March, 1993, before me, appeared Charles E. Foster, the person who signed this instrument, who acknowledged that he signed it as a free act on behalf of the identified corporation with authority to do so.

Jacqueline A. Tully  
Notary Public  
NOTARIAL SEAL  
JACQUELINE A. TULLY, Notary Public  
City of Philadelphia, Phila. County  
My Commission Expires March 5, 1997

TRADEMARK  
REEL: 002591 FRAME: 0171

400-481 250-480 D

# RECORDATION FORM COVER SHEET TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE  
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):

Ellisco Inc.

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

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

3. Nature of conveyance: 15

- ☒ Assignment ☐ Merger  
☐ Security Agreement ☐ Change of Name  
☐ Other

Effective Date: nunc pro tunc March 4, 1993

Execution Date: August 27, 1993

2. Name and address of receiving party(ies)

Name: Brockway Standard, Inc.

Internal Address:

Street Address: 8607 Roberts Road

City: Atlanta State: GA ZIP: 30305

- ☐ 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

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

A. Trademark Application No.(s)

74/320033

B. Trademark Registration No.(s)

1,778,648

Additional numbers attached? ☐ Yes ☒ No

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

Name: Neil S. Hirshman

Internal Address: Kirkland & Ellis

Street Address: 200 East Randolph Drive

City: Chicago State: IL ZIP: 60601

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

☒ Enclosed

☐ Authorized to be charged to deposit account

8. Deposit account number:

22-0440

(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.

Neil S. Hirshman

Name of Person Signing

Signature

Date

5

10. Total number of pages including cover sheet, attachments, and document: 5

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

TRADEMARK  
 REEL: 002591 FRAME: 0172

**AMENDED AND RESTATED ASSIGNMENT OF TRADEMARK**

This Amended and Restated Assignment of Trademark (this "Assignment") executed on this 27<sup>th</sup> day of August, 1993 amends and restates in its entirety that certain Assignment of Trademark executed on March 4, 1993 in favor of Assignee (as defined below) in respect of application serial number 74/285-666 (the "Original Assignment"). This Assignment shall be deemed to be effective, *nunc pro tunc*, as of March 4, 1993.

WHEREAS, Ellisco, Inc., a Pennsylvania corporation, having its principal place of business at Three Bala Plaza, Bala Cynwyd, Pennsylvania 19004 (hereafter referred to as "Assignor") has adopted and used "Monotop" as a trademark (the "Mark"). The Mark is the subject of two federal trademark registrations.

WHEREAS, Brockway Standard, Inc., a Delaware corporation, having a principal place of business in Atlanta, Georgia ("Assignee") is desirous of acquiring said Mark.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor assigns to Assignee all of Assignor's right, title and interest in the Mark, serial numbers 74/285666 and 74/320033 as on file with the United States Patent and Trademark Office, and any registrations resulting from such applications, including, without limitation, registration number 1,778,648 resulting from application serial number 74/285666, together with the goodwill associated therewith, all licenses and sublicenses granted and obtained by Assignor with respect thereto, if any, all of Assignor's rights and remedies against infringement thereof and Assignor's rights to protection of interests therein under the laws of all jurisdictions.

[Corporate Seal]

Ellisco, Inc.

By: Charles E. Foster  
Charles E. Foster, President

TRADEMARK

REEL 1036 FRAME 035

BSI27D07.GRS

TRADEMARK  
REEL: 002591 FRAME: 0173

COMMONWEALTH OF PENNSYLVANIA )  
COUNTY OF PHILADELPHIA ) SS:

RECORDED  
NOTARY PUBLIC OFFICE

SEP 20 93

On this 27<sup>th</sup> day of August, 1993, before me appeared Charles E. Foster, the person who signed this instrument, who acknowledged that he signed it as a free act on behalf of the identified corporation with authority to do so.

  
\_\_\_\_\_  
Notary Public

TRADEMARK

REEL 1036 FRAME 036

## Entity Detail

Page 1 of 2

**Maryland Department of Assessments and Taxation 3****Taxpayer Services Division**

301 West Preston Street Baltimore, Maryland 21201

[Main Menu](#) | 
 [Security Interest Filings \(UCC\)](#) | 
 [Business Entity Information](#)  
 (Charter/Personal Property) [New Search](#) | 
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 [SDAT](#)  
[Home](#)

**Taxpayer Services Division****Entity Name: ELLISCO INC.****Dept. ID #: D00152637**[General Information](#)[Amendments](#)[Personal Property](#)[Certificate of Status](#)NOTICE ABOUT IMAGE AVAILABILITY AND ACCURACYPage **1** of 3

<b>Description</b>	<b>Date Filed</b>	<b>Time</b>	<b>Pages</b>	<b>View Document</b>
<a href="#">ARTICLES OF MERGER</a>	08/02/1994	09:59-AM	0004	
ARTICLES OF MERGER OF ELLISCO INC. (A MD CORPORATION) INTO UNITE D STATES CAN COMPANY (A DE CORPORATION) (SURVIVOR)				
<a href="#">ARTICLES OF MERGER</a>	07/15/1994	10:28-AM	0006	
ARTICLES OF MERGER OF BALLANOFF PRODUCTS, INC. (A DE CORP) INTO EL LISCO INC. (A MD CORP) (SURVIVOR)				
<a href="#">CONVERTED AMENDMENT</a>	07/15/1994	10:28-AM	0004	
ARTICLES OF MERGER OF COLUMBIA SPECIALTY CORP. (A PA CORP) INTO EL LISCO INC. (A MD CORP) (SURVIVOR)				
<a href="#">ARTICLES OF MERGER</a>	07/15/1994	10:28-AM	0004	
<a href="#">ARTICLES OF MERGER</a>	07/15/1994	10:28-AM	0004	
ARTICLES OF MERGER OF PENN-WHEELING CLOSURE CORP. (A PA CORP) INTO ELLISCO INC. (A MD CORP) (SURVIVOR)				
<a href="#">ARTICLES OF REVIVAL</a>	10/19/1990	10:23-AM	0004	
<a href="#">FORFEITED PROCLAMATION OF TAX DEPARTMENT</a>	10/11/1989	08:30-AM	0000	
FAILURE TO FILE A PERSONAL PROPERTY RETURN (FORM # 1) DUE APRIL 15, 1988.				
<a href="#">CONVERTED AMENDMENT</a>	08/19/1986	10:46-AM	0003	

ht.../DisplayEntity\_b.asp?EntityID=D00152637&amp;EntityName=ELLISCO+INC%2E&amp;TabNum= 7/9/02

**TRADEMARK**  
**REEL: 002591 FRAME: 0175**

Entity Detail

Page 2 of 2

AMENDMENT N.C. FROM: T.M.F. CO.

**Link Definition**

<b>General Information</b>	General information about this entity
<b>Amendments</b>	Original and subsequent documents filed
<b>Personal Property</b>	Personal Property Return Filing Information and Personal Property Assessments
<b>Certificate of Status</b>	Get a Certificate of Good Standing for this entity.

**ASSIGNMENT OF TRADEMARK  
NUNC PRO TUNC**

WHEREAS, Brockway Standard, Inc., a Delaware corporation, ("Assignor"), was, as of the effective date of this assignment, the owner of the trademark "Monotop" and the corresponding U.S. Patent and Trademark Office Registration No. 1,778,648 (the "Mark").

WHEREAS, BWAY Manufacturing, Inc., a Delaware corporation, is the successor to Brockway Standard, Inc., a Delaware Corporation, by way of merger of Brockway Standard, Inc. with and into Brockway Standard (New Jersey), Inc., a Delaware Corporation, and the subsequent change of Brockway Standard (New Jersey), Inc.'s name to BWAY Manufacturing, Inc.; and

WHEREAS, BWAY Corporation, a Delaware corporation, having a principal place of business in Atlanta, Georgia ("Assignee") is desirous of acquiring the Mark.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby assigns to Assignee all right, title and interest in and to the Mark, together with the goodwill of the business represented by the Mark, and all other corresponding rights that are or may be hereafter secured under the laws of the United States or any foreign country, now or hereafter in effect, for Assignee's own use and enjoyment, and for the use and enjoyment of Assignee's successors, assigns or other legal representatives, as fully and entirely as the same would have been held and enjoyed by Assignor if this Assignment had not been made, and all claims for damages by reason of past, present or future infringement or other unauthorized use of the Mark, with the right to sue for, and collect the same for Assignee's own use and enjoyment and for the use and enjoyment of Assignee's successors, assigns or other legal representatives.

Assignor hereby requests the Commissioner of Patents and Trademarks, and the corresponding entity or agency in any applicable foreign country, to record Assignee as the assignee and owner of the Mark.

This Assignment shall be deemed to be effective, *nunc pro tunc*, as of September 18, 1997.

BWAY Manufacturing, Inc.

Kevin C. Kern  
Kevin Kern  
Vice President

STATE OF GEORGIA )  
COUNTY OF Fulton ) SS:

On this 9 day of July, 2002, before me appeared Kevin Kern, the person who signed this instrument, who acknowledged that he signed it as a free act on behalf of the identified corporation with authority to do so.

