

Form PTO-1594
(Rev. 10/02)
OMB No. 0651-0027 (exp. 6/30/2005)
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RECORDATION FORM COVER SHEET TRADEMARKS 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):

Damp Rid, Inc.

- 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: 09/30/2003

2. Name and address of receiving party(ies)

Name: Union Planters Bank

Internal National Association

Address:

Street Address: 6200 Poplar Ave., 3rd Floor

City: Memphis State: TN Zip: 38119

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

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) 76528371

B. Trademark Registration No.(s) 0730254, 1109816,

1467905, 1458958, 2499669, 1412952,

Additional number(s) attached Yes No

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

Name: H. Roy Berkenstock

Internal Address: Suite 800

Street Address: 1715 Aaron Brenner Dr.

City: Memphis State: TN Zip: 38120-4367

6. Total number of applications and registrations involved: 17

7. Total fee (37 CFR 3.41).....\$ 440.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

H. Roy Berkenstock
Name of Person Signing


Signature

6/2/04
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

Continuation of the information in 4B.

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1461622
1458957
2241262
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1190409
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10-08-2003

10-6-03

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings



U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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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):

Damp Rid, Inc., a Florida Corporation

- 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:

2. Name and address of receiving party(ies)

Union Planters Bank National Association Internal Address: 3rd Floor

Street Address: 6200 Poplar Ave

City: Memphis State: TN Zip: 38119

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

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

2003 OCT -6 AM 9:52 FINANCE SECTION

OFFICE OF PUBLIC RECORDS

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

A. Trademark Application No.(s) 72109656, 73153800, 73660826, 73636188, 75879808, 73569791

B. Trademark Registration No.(s) 0730254, 1109816 1467905, 1458958, 2499669, 1412952

Additional number(s) attached Yes No

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

Name: Dennis Watkins, Union Planters Bank National Association Internal Address: 3rd Floor

Street Address: 6200 Poplar Ave

City: Memphis State: TN Zip: 38119

6. Total number of applications and registrations involved:

32

7. Total fee (37 CFR 3.41): \$ 1,280.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature.

Kevin J. Mulcrone Kevin J. Mulcrone 9/30/03 Name of Person Signing Signature Date

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

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

Continuation of the information in Item 1.

f/k/a WILCHEM CORPORATION, a Florida corporation

Continuation of the information in Item 4A.

73153801
74227019
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Continuation of the information in Item 4B.

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1250882

**THIRD LOAN MODIFICATION AGREEMENT
AND MODIFICATION TO DEED OF TRUST**

THIS THIRD LOAN MODIFICATION AGREEMENT AND MODIFICATION TO DEED OF TRUST (this "Agreement") is dated as of the 22 day of September, 2003, by and among **W. M. Barr & Company, Inc.**, a Tennessee corporation (referred to individually as "Barr"), and its wholly owned subsidiary **Damp Rid, Inc.**, a Florida corporation (referred to individually as "DRI") (Barr and DRI are hereafter collectively referred to as "Borrower") and **Union Planters Bank, National Association**, a national banking association ("Lender").

Whereas, Barr and Lender entered into a credit facility agreement (the "Loan Agreement") dated November 12, 1999, to provide funds for the purchase of certain obligations of the W. M. Barr & Company, Inc., Employees Stock Option Plan (the "ESOP"), to provide working capital financing to Barr, and to provide funds for other general corporate purposes of Barr;

Whereas, the obligation of the Barr to Lender is secured by a first lien deed of trust on the real estate of the Barr of record in the Shelby County Register's Office at Instrument No. JV 8936.

Whereas, Barr and Lender modified the Loan Agreement as set forth more particularly in a ~~Loan Modification Agreement dated as of December 29, 2000 (the "First Modification")~~, to provide for a modified Revolving Loan Commitment and Coverage Ratio Testing;

Whereas, Barr and Lender further modified the Loan Agreement as set forth more particularly in a Second Loan Modification Agreement dated October 29, 2001 (the "Second Modification"), to provide for the modification of the rate of interest, maturity, and prepayment provisions for the Term Loan.

Whereas, Lender and Barr have agreed to certain additional modifications of certain provisions pertaining to the Revolving Loan advanced under the credit facility so created, including as more specifically set forth herein.

Whereas, Lender has agreed to fund an Acquisition Term Loan to Borrower for the purpose of acquiring all of the capital stock of DRI.

Now Therefore, in consideration of the premises and the agreements, provisions and covenants herein contained, Borrower and Lender agree as follows:

1. **General.** Capitalized words and phrases not specifically defined herein shall have the meanings ascribed thereto in the Loan Agreement, First Modification or Second Modification. To the extent of any conflict between this Agreement and any other documents between Borrower and Lender, including, but not limited to, the Loan Agreement, the First Modification and the Second Modification, this Agreement shall prevail.

2. **Acknowledgment of Debt.** It is acknowledged that as of the date hereof, the current unpaid principal balance of (a) the Term (or ESOP) Loan is Eighteen Million Seven Hundred Forty Nine Thousand Nine Hundred Ninety Nine and 95/100 Dollars \$18,749,999.95; the current unpaid principal balance of the Revolver Loan is Zero Dollars \$0.00.

3. **Modification of the Revolving Loan.** Section 2.1A is modified as follows:

The first two sentences of Section 2.1A as set forth in the First Modification are deleted and the following is substituted in its place:

2.1 A. Lender agrees to loan Borrower from time to time a Revolving Advance. The aggregate amount of all Revolving Loan Commitments shall not at any time exceed \$5,000,000 as reduced pursuant to the section 2.1 J of the Loan Agreement entitled "Mandatory Prepayments."

Section 2.1A[1] is modified so that the "Maximum Revolving Loan Amount" means, as of any date of determination, the lesser of \$5,000,000 or an amount equal to the Borrowing Base Availability.

Section 2.1A[2], [3] and [4] are deleted and replaced with the following:

[2] "Borrowing Base Availability" means, as of any date of determination, an amount equal to the sum of the following:

[i] eighty percent (80%) of Eligible Accounts of Borrower for amounts less than thirty (30) days from due date based on normal selling terms, less one hundred percent (100%) of Eligible Accounts where fifty percent (50%) of the amount due exceeds thirty (30) days, less amounts due from foreign companies, less contra accounts, less credit memos in excess of thirty (30) days from their respective due date, **plus**

[ii] forty percent (40%) of Eligible Inventory excluding inventory stored offsite in facilities not owned by Barr or DRI other than independent third party warehouses, less packaging supplies, less reserves for obsolete inventory and reserve for loss accruals, less in transit inventory to PPG, **plus**

[iii] eighty percent (80%) of appraised real estate value (per appraisals certified to Lender in 1999), **plus**

[iv] twenty five percent (25%) of the book value of Borrower's Equipment, net of depreciation, **less**

[v] the then current principal balance of the Term Loan, **less**

[vi] the then current principal balance of the Acquisition Term Loan.

The first sentence of Section 2.1A M is deleted and replaced with the following:

M. Term of the Revolving Loan Commitment. Lender shall be under no further obligation with respect to the Revolving Loan Commitment on that date (the "Termination Date") which is the earlier of (a) September 30, 2004, or (b) the date of acceleration of all Obligations pursuant to Section 7.3 of the Loan Agreement captioned "Acceleration."

Section 2.1A E is deleted and replaced with the following:

E. Rate of Interest. Interest only shall accrue and be due upon the outstanding principal amount of the Acquisition Term Loan at a rate equal to the Prime Rate until December 31, 2003, at which time the interest rate shall be adjusted quarterly according to the schedule provided below, based on Borrower's ratio of Funded Debt to EBITDA. For purposes of borrowing mechanics and computation of interest set forth in Sections 2.1A C and F respectively, the Revolving Loan shall hereafter be a Base Rate Loan.

For purposes of borrowing mechanics and computation of interest set forth in Sections 2.1A C and F respectively, the Revolving Loan shall hereafter be a Base Rate Loan.

<u>Funded Debt:EBITDA Ratio</u>	<u>Interest Rate</u>
Less than 2.5	Prime less ½%
Less than or equal to 3.0	Prime less ¼%
Less than or equal to 3.5	Prime
Greater than 3.5	Prime plus ¼%

4. Acquisition Term Loan. A new Section 2.1B is inserted in the Loan Agreement as follows:

2.1B. Acquisition Term Loan. In addition to the Revolving Loan and the Term Loan, Lender agrees to lend to Borrower the principal amount of Thirteen Million Dollars (\$13,000,000) (the "Acquisition Term Loan"), bearing interest and having a maturity as set forth in this Section 2.1 B. Barr shall contribute \$6,100,000 in cash toward the Purchase Price as set forth in that certain Stock Purchase Agreement dated September 11, 2003 among Barr, TETRA Technologies, Inc., and DRI.

A. Purpose. The purpose of the Acquisition Term Loan shall be to fund, in part, ~~Barr's acquisition of all of the capital stock of DRI.~~

B. Note. Borrower shall execute and deliver a Promissory Note in the form attached hereto as Exhibit A evidencing the indebtedness of the Acquisition Term Loan.

C. Interest Accrual. Interest shall accrue upon the outstanding principal amount of the Acquisition Term Loan at a rate equal to the Prime Rate until December 31, 2003, at which time the interest rate shall be adjusted quarterly according to the schedule provided below (Variable Rate), based on Borrower's ratio of Funded Debt to EBITDA.

<u>Funded Debt:EBITDA Ratio</u>	<u>Interest Rate</u>
Less than 2.5	Prime less ½%
Less than or equal to 3.0	Prime less ¼%
Less than or equal to 3.5	Prime
Greater than 3.5	Prime plus ¼%

Borrower shall have the one-time option, at any time during the term of the loan, to fix the rate of interest on the Acquisition Term Loan according to the LIBOR-based schedule provided below (any such rate of interest so fixed shall be herein referred to as the "Fixed Rate"), by providing written or facsimile notice to Lender of its election; provided the fixed term cannot extend beyond the maturity date Acquisition Term Loan..

<u>Funded Debt:EBITDA Ratio</u>	<u>Interest Rate</u>
Less than 2.5	5 year LIBOR + 250 basis points
Less than or equal to 3.0	5 year LIBOR + 275 basis points
Less than or equal to 3.5	5 year LIBOR + 300 basis points
Greater than 3.5	5 year LIBOR + 325 basis points

Interest rate changes as set forth above shall be effective as of the first day of the second calendar month following the end of the applicable quarter. In the event that the Borrower should fail to deliver necessary financial statements to make the determination of the applicable rate defined above on or before

two business days prior to such date, interest shall accrue at the Lender's Prime Rate until the date of delivery of such financial statements.

D. Maturity. The Acquisition Term Loan shall mature and be payable in quarterly payments, interest only until September 30, 2004; thereafter, amortized in equal quarterly installments of principal and interest over a five (5) year period. The entire principal balance, together with all unpaid interest, fees and expenses accrued thereon, shall be due and payable in full on September 30, 2009.

E. Prepayment Premium (LIBOR/SWAP). The Acquisition Term Note may be prepaid in whole or in part at any time without penalty or premium of any kind if it is bearing interest at the Variable Rate. If the Acquisition Term Note is bearing interest at a Fixed Rate the Borrower may prepay all or any part of the principal balance of the Acquisition Term Note on one business day's notice provided that, in addition to all principal, interest and costs owing at the time of prepayment, Borrower pays a prepayment premium equal to: (a) the NPV (NPV calculations will be based on the Original contracted note rate) of Interest that would have accrued on the amount prepaid (under the original terms and conditions of the note) at the Fixed Rate through the next adjustment or maturity date whichever is next to occur, less (b) the NPV of Interest that would have accrued on the amount prepaid (under the original terms and conditions of the note) at the LIBOR / SWAP rate. The present value of the principal and note rate income streams will be calculated by using the LIBOR / SWAP curve concurrent with the Business Day prior to the date of prepayment through the next interest rate adjustment or maturity date whichever is next to occur.

(a) - (b) = Prepayment Premium

In no event shall the prepayment premium be less than zero. Borrowers' notice of its intent to prepay shall be irrevocable. If the balance of the Acquisition Term Note is accelerated in accordance with the terms of this Agreement, the resulting balance due shall be considered a prepayment due and payable as of the date of acceleration.

Borrower agrees that the prepayment premium is a reasonable estimate of loss and not a penalty. The prepayment premium is payable as liquidated damages for the loss of bargain, and its payment shall not in any way reduce, affect or impair any other obligation of the Borrower under the Acquisition Term Note.

Prepayment Definitions: NPV means Net Present Value. LIBOR / SWAP means LIBOR (London Interbank Offered Rate) is fixed each morning by the British Bankers' Association (BBA). The LIBOR / SWAP rates to be used will be on the day of prepayment. Lender used the LIBOR SWAP as shown in Bloomberg (USSWAP Mid) (day count adjusted from actual/360 to actual/actual).

F. Reamortization. If prepayment is received, Lender agrees to reamortize loan over existing remaining term, subject to prepayment premium, as required herein, in which event Borrower shall execute and deliver to Lender a modification agreement.

5. Financial Covenants. Section 5.1 of the Loan Agreement, as previously modified by paragraph 2 of the First Modification, is hereby deleted and replaced with the following:

Cash Flow Coverage. Borrower shall maintain a minimum Cash Flow Coverage, measured on the following dates, as set forth below:

<u>As of:</u>	<u>Ratio</u>	<u>Measurement Basis</u>
9/30/03	1:10	1 quarter
12/31/03	1:10	2 quarters, rolling

3/31/04	1:10	3 quarters, rolling
6/30/04 and thereafter	1:25	4 quarters, rolling

Borrowers' consolidated Cash Flow Coverage shall be measured quarterly as of 9/30, 12/31, 3/31 and 6/30 for so long as any Obligations are outstanding.

Section 5.2 of the Loan Agreement is hereby deleted and replaced with the following:

Funded Debt. Borrower shall maintain a maximum ratio of Total Funded Debt to Tangible Net Worth, measured on the following dates, as set forth below:

<u>As of:</u>	<u>Ratio</u>
9/30/03	3.00:1 or less
12/31/04	2.24:1 or less
12/31/05 and thereafter	2.00:1 or less

Borrowers' Funded Debt ratio to Tangible Net Worth shall be measured quarterly as of 9/30, 12/31, 3/31 and 6/30 for so long as any Obligations are outstanding.

~~A new Section 5.3 is hereby added as follows:~~

Capital Expenditures. Borrower shall limit annual Capital Expenditures to \$3,000,000.

6. Collateral.

A. Security Interest. To secure the indebtedness and Obligations of Borrower to Lender, Borrower hereby grants to Lender a continuing security interest in, and authorizes Lender to take such necessary actions and to file such necessary financing statements and other documents as may be required or desirable, to fully perfect Lender's security interest herein granted by Borrower, under the Uniform Commercial Code as enacted in the respective states of Borrowers' formation, and such other state and federal laws as required, in the following property, whether now existing or acquired hereafter (hereafter the "Collateral"): Accounts Receivable, Inventory, Machinery and Equipment, Land and Buildings, and General Intangibles, including without limitation all Trademarks, Patents, Formulas and other Intellectual Property Rights of Borrower.

B. Collateral Reporting. Borrower shall deliver to Lender a Borrowing Base Certificate: (i) monthly, and (ii) three Business Days in advance of any Funding Date, and (iii) such other information related to the Collateral reasonably requested by Lender. A satisfactory pre-closing field exam and thereafter quarterly exams shall be conducted by an examiner selected by Lender and paid for by Barr.

7. Calculation of Funded Debt. For purposes of this Agreement, calculation of Funded Debt shall be based upon Borrowers' EBITDA, determined as of the following dates:

12/31/03	1 quarter
3/31/04	2 quarters
6/30/04	3 quarters
9/30/04	4 quarters
thereafter	the most recent 4 quarters

8. **Synergy Lease.** Borrower agrees to exercise good faith and reasonable efforts to obtain an operating lease through Synergy or other lender to finance recently and to be acquired manufacturing equipment. Any proceeds from such lease may be applied, after payment of interest, fees and expenses, to pay down the principal balance of the Acquisition Term Loan.

9. **Additional Definitions.**

"Funded Debt" shall mean Borrower's total obligations outstanding to Lender and any participating lenders under the Loan Agreement, as amended by the First Modification, the Second Modification and this Agreement.

"Cash Flow Coverage" shall mean EBITDA divided by the sum of interest plus CMLTD plus unfunded capital expenditures.

10. **Fees.** The Borrower shall pay the Lender a one-time modification fee equal to the sum of the following: (a) one half of one percent (0.50%) of the advance of Lender to Borrower under the Acquisition Term Loan, plus (b) one quarter of one percent (0.25%) of the outstanding principal balance on the Revolving Loan. Borrower shall further pay all out-of-pocket expenses of Lender accrued in connection with this Agreement, including reasonable legal fees, due diligence expenses and for pre-closing and quarterly field exams.

11. **Financial Reporting.** In addition to the financial reporting requirements of Section 4.5 of the Loan Agreement, Borrower shall submit to Lender any annual management letter received by Borrower, prepared by an accounting firm acceptable to Lender on or before April 30th of each year during which any Obligations are outstanding. In addition to the monthly reporting requirements set forth in Section 4.5 of the Loan Agreement, Borrower shall deliver to Lender quarterly a covenant compliance certificate.

12. **Reports.** All reports regarding Collateral and financial statements are to be in form and scope reasonably requested by, and reasonably satisfactory to Lender.

13. **Amendment to Notes.** Lender agrees that this Agreement amends both the Term Note and the Revolving Note and that it shall make a notation upon its records showing that the Term Note and Revolving Note have each been modified as set forth herein.

14. **Confirmation and Modification of Notes.** In consideration of the modification herein granted, Borrower promises to continuously pay the indebtedness evidenced by the Term Note and Revolving Note executed under the terms of the Loan Agreement, as modified and amended by the First Modification, the Second Modification and as set forth hereinabove, and to keep and perform all the covenants, terms and conditions contained in any agreement or document governing the terms and conditions of the borrowing affected hereby. It is expressly understood and agreed that the terms, covenants and conditions of all instruments evidencing or securing the aforesaid indebtedness shall remain in full force and effect, and shall in no manner be affected by the execution of this Agreement except as the same are expressly modified herein.

15. **No Discharge.** The execution of this Agreement does not discharge any of the obligors, sureties, endorsers, guarantors of the Term Note or Revolving Note, and all rights of the Lender against any or all of the same are expressly reserved.

16. **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of the parties hereto, their respective heirs, next of kin, successors, assigns, transferees and grantees, and

shall be governed and construed in accordance with the laws of the State of Tennessee. Borrower acknowledges and hereby consents to Lender placing any part of the indebtedness with a participating lender, subject to Borrower's written consent, such consent not to be unreasonably withheld.

In Witness Whereof, the parties hereunto have executed this Third Modification Agreement and Modification of Deed of Trust as of the date first above written.

"LENDER"

UNION PLANTERS BANK, N.A.
a national banking association

By: *Dennis Watkins*
Name: DENNIS WATKINS
Title: S. Vice President

"BORROWER"

W. M. BARR & COMPANY, INC.
a Tennessee corporation

By: *Kevin J. Mulcrone*
Name: KEVIN J. MULCRONE
Title: V.P. of Finance

and

DAMP RID, INC.
a Florida corporation

By: *Kevin J. Mulcrone*
Name: KEVIN J. MULCRONE
Title: V.P. of Finance

EXHIBIT A

PROMISSORY NOTE

\$13,000,000.00

Dated: September __, 2003

FOR VALUE RECEIVED, the undersigned, W.M. BARR, INC. and DAMP RID, INC. hereby promise to pay to the order of UNION PLANTERS BANK, N. A. (the "Bank") on demand, or if no demand, on September __, 2006, the principal sum of Thirteen Million Dollars (\$13,000,000.00) or, if less, the aggregate unpaid principal amount of the Loan (as defined below) made by the Bank to the Borrower outstanding.

The Borrower promises to pay interest on the unpaid principal amount of the Loan from the date of such Loan until such principal amount is paid in full, at such interest rates, and payable at such times, as are specified in the Agreement defined below.

Both principal and interest are payable in lawful money of the United States of America to the Bank at its principal offices at 6200 Poplar Avenue, Memphis, Tennessee, 38119 in same day funds. All ~~Loans made by the Bank to the Borrower and all payments made on account of principal hereof shall be~~ recorded by the Bank.

This Promissory Note is the Note referred to in, and is entitled to the benefits of, the Third Loan Modification Agreement and Amendment to Deed of Trust of even date herewith (the "Agreement"), by and among the Borrower and the Bank. The Agreement, among other things, (i) provides for the making of a Loan (the "Loan") by the Bank to the Borrower in the amount first above mentioned, and (ii) contains provisions for acceleration of the maturity hereof upon the happening of certain stated events therein specified.

THIS PROMISSORY NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF TENNESSEE

W.M. BARR, INC.

By: _____
Name: _____
Title: _____

DAMP RID, INC.,

By: _____
Name: _____
Title: _____