

07-28-2004

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



102801371

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): Mule-Hide Products Co., Inc.

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other 1st Amendment to ...Mortgage

Execution Date: 06/30/04

2. Name and address of receiving party(ies)

Name: Bank of America, N.A.

Internal Address:

Street Address: 231 S. LaSalle St., 16th Floor

City: Chicago State: IL Zip: 60604

- 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) See attached

B. Trademark Registration No.(s) See attached

Additional number(s) attached Yes No

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

Name: Cathryn A. Berryman

Internal Address:

Street Address: Jenkens & Gilchrist, P.C.

1445 Ross Ave, Suite 3200

City: Dallas State: TX Zip: 75202

6. Total number of applications and registrations involved: 13

7. Total fee (37 CFR 3.41) \$ 340.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

10-0447 (underpayment/overpayment)

DO NOT USE THIS SPACE

9. Signature.

Cathryn A. Berryman Name of Person Signing

Cathryn A Berryman Signature

7-21-04 Date

Total number of pages including cover sheet, attachments, and document: 11

07/27/2004 6TOM11 00000066 2023107

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

01 FC:8521 02 FC:8522

40.00 OP 300.00 OP

TRADEMARK REEL: 003014 FRAME: 0508

## EXHIBIT B

Trademarks and Trademark Registrations

(All are U.S. Trademarks registered on Principal Register unless otherwise noted)

Trademark	Application No./ Registration No.	Filing/ Registration Date
Kingstree	2,023,107	12/17/1996
Shur-Gard	2,029,642	1/14/1997
Liqui-Thix (stylized)	2,079,987	7/15/1997
Poly Iso 2	1,977,174	5/28/1996
Seal Fast	1,978,078	6/04/1996
Fast Caps	2,702,441	4/01/2003
Mule-Hide	0,233,815	10/11/1927
Mule-Hide	0,443,599	12/06/1949
Mule-Hide (logo)	1,700,566	7/14/1992
Mule-Hide (logo)	1,737,851	12/08/1992
Mule-Hide	2,819,275	3/2/2004
Mule-Hide (logo)	76498602	3/19/2003
Mule-Hide (logo)	78207910	1/28/2003

FIRST AMENDMENT  
to  
PATENT, TRADEMARK AND LICENSE MORTGAGE

This First Amendment to Patent, Trademark and License Mortgage (this "Amendment"), effective as of June 30, 2004 (the "Effective Date"), is entered into between Mule-Hide Products Co., Inc., a Texas corporation (the "Mortgagor"), and Bank of America, N. A. (successor in interest by merger to NationsBank, N.A.), as administrative agent (in such capacity, the "Mortgagee").

W I T N E S S E T H

WHEREAS, the Mortgagor and the Mortgagee are parties to that certain Patent, Trademark and License Mortgage, dated as of May 12, 1998, filed in the trademark records of the United States Patent and Trademark Office (as such agreement may be otherwise amended or modified from time to time, the "Mortgage");

WHEREAS, the Mortgage secures certain obligations and indebtedness of American Builders & Contractors Supply Co., Inc. ("Parent") arising under the certain Second Amended and Restated Loan and Security Agreement, dated as of May 12, 1998, among Parent, the Agent and the Lenders from time to time party thereto (as amended, restated and otherwise modified from time to time, the "Existing Loan Agreement");

WHEREAS, concurrently herewith the Existing Loan Agreement has been amended and restated pursuant to the certain Fourth Amended and Restated Loan and Security Agreement, dated as of June 30, 2004, among Parent and certain of its subsidiaries party thereto (including Mortgagor), the Mortgagee and the lending institutions party thereto (as such agreement may be amended, restated or otherwise modified from time to time, the "New Loan Agreement");

WHEREAS, the Mortgagor and the Mortgagee have agreed to amend the Mortgage as provided hereinbelow;

NOW, THEREFORE, in consideration of the terms and conditions contained herein, and of any loans or financial accommodations heretofore, now or hereafter made to or for the benefit of the Borrowers by the Lenders, the parties hereto agree as follows (all capitalized terms used in this Amendment which are not otherwise defined herein shall have the meanings ascribed to such terms in the New Loan Agreement):

1. Amendment to Certain Defined Terms. The following defined terms used in the Mortgage hereby are amended as follows:

(a) Any and all references in the Mortgage to the "Loan and Security Agreement" shall be deemed to refer to the New Loan Agreement.

(b) Any and all references in the Mortgage to the "Obligations" shall be deemed to mean all "Obligations" as defined by the New Loan Agreement (which

includes, without limitation, renewal of all "Liabilities" as defined by the Existing Loan Agreement).

2. Amendment to Exhibit B. Exhibit B to the Mortgage is amended and restated in its entirety as set forth on Exhibit B attached hereto.

3. Representations and Warranties of Mortgagor. The Mortgagor hereby represents and warrants that as of the date of this Amendment the representations and warranties of the Mortgagor contained in the Mortgage are true and correct on and as of the date hereof to the same extent as though made on and as of the date hereof (except to the extent any such representations or warranties relate to a specific date), and all Exhibits attached to the Mortgage, except as modified hereby, remain true, correct and complete.

4. Reference to and Effect on the Mortgage. Except as expressly provided herein, the Mortgage shall remain unmodified and in full force and effect and is hereby ratified and confirmed. The execution, delivery, and effectiveness of this Amendment shall not operate as a waiver or forbearance of (a) any right, power, or remedy of the Mortgagee or the Lenders under the Mortgage or (b) any Default or Event of Default. This Amendment shall constitute a Loan Document. All references in any of Loan Documents, other than this Amendment, to the Mortgage shall be deemed to refer to the Mortgage as modified by this Amendment.

5. Fees, Costs, and Expenses. The Mortgagor agrees to pay on demand all costs and expenses of the Lenders and the Mortgagee in connection with the preparation, execution, delivery, and filing of this Amendment, including the fees and out-of-pocket expenses of counsel for the Lenders and the Mortgagee with respect thereto.

6. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto as separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, when taken together, shall constitute but one and the same agreement.

7. Effectiveness. This Amendment shall be deemed effective as of the Effective Date specified in the introductory paragraph upon execution by the Mortgagor and the Mortgagee.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first written above.

MULE-HIDE PRODUCTS CO., INC.

ATTEST:

By: Edward V. Tearmen  
Name: Edward V. Tearmen  
Title: Corporate Accounting mgr

By: Kendra A. Story  
Kendra A. Story  
Chief Financial Officer and Treasurer

BANK OF AMERICA, N. A  
(successor in interest by merger to NationsBank,  
N.A.), as Mortgage and Administrative Agent for  
the Lenders

By: \_\_\_\_\_  
Donald A. Mastro  
Vice President

Address for Notice:

231 S. La Salle Street, 16<sup>th</sup> Floor  
Mail Code IL1-231-16-33  
Chicago, Illinois 60697  
Attention: Business Credit/URGENT

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the day and year first written above.

MULE-HIDE PRODUCTS CO., INC.

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Kendra A. Story  
Chief Financial Officer and Treasurer

BANK OF AMERICA, N. A.  
(successor in interest by merger to NationsBank,  
N.A.), as Mortgagee and Administrative Agent for  
the Lenders

By: *Donald A. Mastro*  
Donald A. Mastro  
Vice President

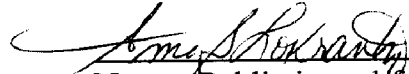
Address for Notice:

231 S. La Salle Street, 16<sup>th</sup> Floor  
Mail Code IL1-231-16-33  
Chicago, Illinois 60697  
Attention: Business Credit/URGENT

STATE OF WZ §  
  §  
COUNTY OF Rock §

Subscribed and sworn to before me, the undersigned notary public, on the 30<sup>th</sup> day of June, 2004, by Kendra A. Story, the Chief Financial Officer and Treasurer of Mule-Hide Products Co., Inc., a Texas corporation, for and on behalf of said corporation.

[SEAL]

  
\_\_\_\_\_  
Notary Public in and for  
The State of WZ

My Commission Expires: 4-10-05

STATE OF \_\_\_\_\_ §  
  §  
COUNTY OF \_\_\_\_\_ §

Subscribed and sworn to before me, the undersigned notary public, on the \_\_\_ day of June, 2004, by Donald A. Mastro, a Vice President of Bank of America, N A., a national banking association, for and on behalf of said banking association.

[SEAL]

\_\_\_\_\_  
Notary Public in and for  
The State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF \_\_\_\_\_ §

§

COUNTY OF \_\_\_\_\_ §

§

Subscribed and sworn to before me, the undersigned notary public, on the \_\_\_ day of June, 2004, by Kendra A. Story, the Chief Financial Officer and Treasurer of Mule-Hide Products Co., Inc., a Texas corporation, for and on behalf of said corporation.

[SEAL]

\_\_\_\_\_  
Notary Public in and for  
The State of \_\_\_\_\_

My Commission Expires: \_\_\_\_\_

STATE OF Illinois §

§

COUNTY OF Cook §

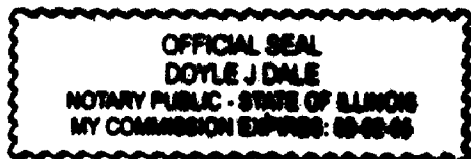
§

Subscribed and sworn to before me, the undersigned notary public, on the 29 day of June, 2004, by Donald A. Mastro, a Vice President of Bank of America, N A., a national banking association, for and on behalf of said banking association.

[SEAL]

*Doyle J Dale*  
Notary Public in and for  
The State of IL.

My Commission Expires: 08-02-05





## EXHIBIT B

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(All are U.S. Trademarks registered on Principal Register unless otherwise noted)

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