

07-28-2004

7.26.04



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

RE 102801369

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):

American Builders & Contractors Supply Co., Inc.

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

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

3. Nature of conveyance:

- Assignment Merger
Security Agreement Change of Name
Other 4th 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
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: Jenkins & Gilchrist, P.C.

1445 Ross Ave, Suite 3200

City: Dallas State: TX Zip: 75202

6. Total number of applications and registrations involved:

16

7. Total fee (37 CFR 3.41): \$ 415.00

- 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: 13

07/27/2004 6TON11 00000064 1376499

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
375.00 DP

TRADEMARK
REEL: 003015 FRAME: 0249

EXHIBIT B

Trademarks and Trademark Registrations

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

<u>Mark</u>	<u>Serial/Filing/ Reg. No.</u>	<u>Reg. Date</u>	<u>Notes</u>
American Builders & Contractors Supply Co., Inc.	<u>1,376,499</u>	12/17/1985	Supplemental Register
ABC Supply Co., Inc.(stylized)	1,394,477	5/20/1986	
ABC Supply Co., Inc. (stylized in color)	1,920,520	9/19/1995	
GreenScape Company	1,737,851	12/08/1992	abandoned due to non-use
Committed to Getting Your Job Done. Easier.	2475648	8/7/2001	
American Construction Metals	2,716,814	5/13/2003	
Roof Dimensions Collection	78151207	8/6/2002	
Avid Pallet Services	2,811,807	2/3/2004	
Ecoballast	2,830,688	4/6/2004	
Greengrid*	2802851	1/6/2004	
Readygreen*	2802852	1/6/2004	
Greenscape	78151207	8/6/2002	this trademark application was refused registration
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	

*American Builders & Contractors Supply Co., Inc. ("ABC") has entered into a license agreement with Weston Solutions, Inc. ("Weston") dated effective January 1, 2003, whereunder ABC licenses to Weston these trademarks and patents, and certain related rights.

FOURTH AMENDMENT
to
AMENDED AND RESTATED PATENT, TRADEMARK AND LICENSE MORTGAGE

This Fourth Amendment to Amended and Restated Patent, Trademark and License Mortgage (this "Amendment"), effective as of June 30, 2004 (the "Effective Date"), is entered into between American Builders & Contractors Supply Co., Inc., a Delaware corporation (the "Mortgagor"), and Bank of America, N. A. (successor in interest by merger to NationsBank, N.A. which was formerly NationsBank of Texas, N.A.), as administrative agent (in such capacity, the "Mortgagee") for the lenders (the "Lenders") from time to time party to the Loan Agreement identified below.

W I T N E S S E T H

WHEREAS, the Mortgagor and the Mortgagee are parties to the certain Amended and Restated Patent, Trademark and License Mortgage, dated as of July 1, 1993, filed in the trademark records of the United States Patent and Trademark Office on July 12, 1993 (as amended by that certain First Amendment to Amended and Restated Patent, Trademark and License Mortgage, dated effective as of February 8, 1996; that certain Second Amendment to Amended and Restated Patent, Trademark and License Mortgage, dated effective as of May 12, 1998; that certain Third Amendment to Amended and Restated Patent, Trademark and License Mortgage, dated effective as of March 21, 2002; and as such agreement may be otherwise amended or modified from time to time, the "Mortgage");

WHEREAS, the Mortgage secures certain obligations and indebtedness of the Mortgagor arising under the certain Third Amended and Restated Loan and Security Agreement, dated as of March 21, 2002, among the Mortgagor, the Mortgagee and the Lenders from time to time party thereto (as amended, 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 the Mortgagor, certain of its subsidiaries party thereto, the Mortgagee and the lending institutions party thereto (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 "Liabilities" 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 Exhibits. Exhibits A and B to the Mortgage are amended and restated in their entireties as set forth on Exhibit A and Exhibit B, respectively, 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 the 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.

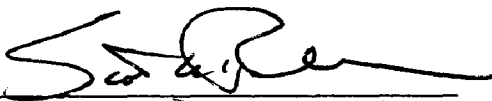
6. Counterparts. This Amendment may be executed in any number of counterparts and by different parties hereto as separate counterparts, each of which counterparts, when so executed and delivered, shall be deemed to be an original and all of which counterparts, when taken together, shall constitute but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

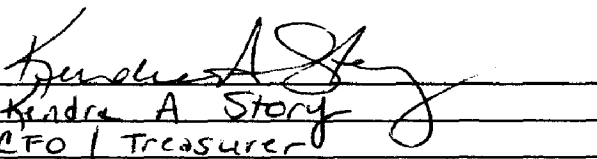
7. Effectiveness. This Amendment shall be deemed effective as of the Effective Date specified in the introductory paragraph upon execution by the Mortgagor and the Mortgagee.

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

ATTEST:

AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.

By: 
Name: Scott Bianchini
Title: Tax Director

By: 
Name: Kendra A Story
Title: CFO / Treasurer

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

By: _____
Name: _____
Title: _____

Address for Notice:

231 S. La Salle Street, 16th Floor
Mail Code IL1-231-16-33
Chicago, Illinois 60697
Attention: Business Credit/URGENT
Telecopy: (____)____-_____

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

ATTEST:

AMERICAN BUILDERS &
CONTRACTORS SUPPLY CO., INC.

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

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

By: Donald A. Mastro
Name: DONALD A. MASTRO
Title: VICE PRESIDENT

Address for Notice:

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

EXHIBIT APatents and Patent Applications

<u>Patent Description</u>	<u>Serial/Reg. No.</u>	<u>Issue Date</u>
Merchandiser Display	Des. 418,330	1/4/2000
Merchandiser Display	6,000,561	12/14/1999
Hand Tool Display	Des. 418,349	1/4/2000
Modular Ballast System For Membrane Roofs*	60/406,746	8/29/2002
Ballast System For Membrane Roofs	60/426,079	11/12/2002
Methods and Apparatus for Recycling Asphalt Shingle Material	09/838,045	4/18/2001
Methods and Apparatus for Recycling Asphalt Shingle Material into Shaped Products	09/838,043	4/18/2001
Methods and Apparatus for Recycling Asphalt Shingle Material into Landscaping, Ground Cover, and Erosion Control Products	6,743,313	6/1/2004
Methods and Apparatus for Recycling Asphalt Shingle Material into Composite Board Products	09/837,920	4/18/2001
Modular Green Roof System, Apparatus and Methods, Including Modular Panels with Complimentary Edge System** ***	09/908,880	7/18/2002
Modular Green Roof System, Apparatus and Methods, Including Preseeded Modular Panels** ***	09/908,881	7/18/2001

Modular Green Roof System, Apparatus and Methods, Including Interlocking Modular Panels** ***	09/908,864	7/18/2001
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*[*PCT Application:*

PCT/US03/27067

8/29/2003]

*[**Japanese, EU and Canadian patent applications also filed for these inventions, under supervision of Keith Frantz. Canadian applications are #2,416,463, #2,418,262, and #2,416,457.]*

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Greenscape*	76/200022	1/25/2001	this trademark application was refused registration
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