

08-30-2001

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

Final documents or copy thereof.

To the Honorable Commissioner of Patents and Trademarks

1. Name of conveying party(ies): Durango Georgia Converting, LLC
Individual(s) Association
General Partnership Limited Partnership
Corporation-State
Other Delaware Limited Liability Company
Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:
Assignment Merger
Security Agreement Change of Name
Other
Execution Date: January 31, 2001

4. Application number(s) or registration number(s):
A. Trademark Application No.(s) 75857317, 75857422
B. Trademark Registration No.(s) 2395948
Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
Name: Daniele E. Bourgeois
Internal Address: Troutman Sanders LLP
Street Address: 600 Peachtree Street NE
City: Atlanta State GA Zip: 30308

2. Name and address of receiving party(ies)
Name: Bank of America, N.A. as agent for the Lenders
Internal Address: 5th Floor
Street Address: 600 Peachtree Street NE
City: Atlanta State GA Zip 30308
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

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: 20-1507
(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.
Daniele E. Bourgeois Signature
August 24, 2001 Date

Total number of pages including cover sheet, attachments, and document: 14

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

08/29/2001 AHMED1 00000163 75857317
01 FC:481 40.00 OP
02 FC:482 50.00 OP

TRADEMARK REEL: 002358 FRAME: 0295

CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT

THIS CONDITIONAL ASSIGNMENT AND TRADEMARK SECURITY AGREEMENT (the "Agreement") is made as of the 31st day of January, 2001 by the Borrowers referred to below in favor of the Agent, for the benefit of the Lenders (as such terms are defined below).

WITNESSETH:

WHEREAS, Durango Paper Company, a Delaware corporation, Durango Georgia Paper Company, a Georgia corporation, Durango Georgia Sales Company, a Delaware corporation, Durango Georgia Converting Corporation, a New York corporation, Durango Georgia Converting, LLC, a Delaware limited liability company, St. Marys Railroad, LLC, a Delaware limited liability company (each, a "Borrower" and, collectively, the "Borrowers"), certain financial institutions (collectively, the "Lenders") and Bank of America, N.A., as agent for the Lenders (in such capacity, the "Agent"), have entered into a Loan and Security Agreement of even date herewith (as amended, restated, supplemented or otherwise modified from time to time, the "Loan Agreement"; capitalized terms used herein without definition shall have the meanings ascribed to such terms in the Loan Agreement), pursuant to which the Lenders have agreed to make certain loans and other financial accommodations available to the Borrowers (the "Loans"); and

WHEREAS, the Borrowers will derive substantial benefits, both directly and indirectly, from the Loans; and

WHEREAS, in order to induce the Agent and the Lenders to enter into the Loan Agreement and to make the Loans, the Borrowers have agreed to assign to the Agent, for the ratable benefit of the Lenders, certain trademark rights as described herein.

NOW, THEREFORE, in consideration of the premises, the Borrowers hereby agree with the Agent as follows:

1. Grant of Security Interest.

To secure the complete and timely payment and performance of all Obligations, each Borrower hereby grants, assigns and conveys to the Agent, for the ratable benefit of the Lenders, a security interest in such Borrower's entire world-wide right, title and interest in and to the trademarks and their respective registrations and applications for registration listed in **Schedule A** attached hereto and by reference made a part hereof, together with the goodwill of the business symbolized by the trademarks, all licenses relating thereto, and all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), and the right to sue for past, present and future infringements (all of which trademarks, trademark registrations, applications for registration, goodwill, licenses, proceeds, and other rights are collectively called the "Trademarks").

2. Representations and Warranties.

Each Borrower represents and warrants that, as of the date hereof:

- (a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part, in the United States of America (the "U.S.") or in any of the respective states thereof;
- (b) The Trademarks listed on Schedule A attached hereto and by reference made a part hereof which are indicated on such Schedule A as being owned by such Borrower constitute all of the trademarks owned by such Borrower;
- (c) Each of the Trademarks is valid and enforceable in the U.S. and the respective states thereof and all claims by others to rights in the Trademarks of which such Borrower is aware, including, without limitation, licenses, are noted on Schedule B attached hereto and by reference made a part hereof;
- (d) Except as noted on Schedule B and except for Permitted Liens, such Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to the Trademarks which are indicated on such Schedule A as being owned by such Borrower, free and clear of any liens, charges, encumbrances, mortgages, hypothecations, pledges, liens, security interests or claims of any kind, including, without limitation, covenants by such Borrower not to sue third persons and licenses;
- (e) Such Borrower has made all necessary applications, filings and recordations to protect and maintain its interest in its respective Trademarks, including, without limitation, all necessary filings and recordations in the U.S. Patent and Trademark Office; and
- (f) Such Borrower has the unqualified right, power and authority to execute, deliver and perform this Agreement.

3. Conditional Grant of Security Interest in Additional Trademarks.

If, before the Obligations shall have been satisfied in full and the Commitments shall have been terminated, any Borrower shall have or obtain ownership of any trademark, including any registration or application therefor, with respect to goods sold in any Borrower's business (the "Goods"), the provisions of Paragraph 1 shall automatically apply thereto, and also to any composite marks or other marks of any Borrower which are confusingly similar to such mark, and the Borrowers shall give to the Agent prompt written notice thereof. This Paragraph 3 shall not apply to trademarks which are owned by others and licensed to any Borrower. Each Borrower shall perform all acts and execute all documents reasonably requested by the Agent at any time and from time to time to evidence, perfect, maintain, record and enforce the Agent's

security interest in the Trademarks, including, without limitation, any trademarks falling under this Paragraph 3.

4. Modification of Agreement.

Each Borrower authorizes the Agent to modify this Agreement by amending Schedule A to include any additional trademarks, registrations and applications for registration thereof which are Trademarks under Paragraph 1 or Paragraph 3 hereof, and to have this Agreement, as amended, or any other document evidencing the security interest granted therein, recorded in the United States Patent and Trademark Office at the expense of the Borrowers. The representations and warranties of each Borrower shall be deemed to be remade and restated by such Borrower as of the date of the amendment of Schedule A with respect to all of such Borrower's Trademarks as are being added to the amended Schedule A at that time.

5. Covenants of Borrowers.

(a) Each Borrower covenants as follows: (i) it will take all commercially reasonable steps to maintain the standard of quality which has become associated with its Trademarks; (ii) the Agent, at all reasonable times during regular business hours (and any time when a Default or Event of Default exists), shall have the right to inspect samples of the Goods and the premises at which the Goods are produced and records relating to the Trademarks at the premises where such records are kept; and (iii) the Agent, acting in good faith, shall have the right to prevent use of the Trademarks on Goods which are not of high quality, all so as to preserve the goodwill symbolized by the Trademarks.

(b) Each Borrower further agrees that: (i) it will use and not abandon or do any act or omit to do any act that may cause the abandonment of any Trademark owned by it, or permit the expiration of any registration of any Trademark owned by it; (ii) it shall give the Agent written notice, and a complete copy, of any sublicense of any Trademark owned by it; and (iii) all uses of its respective Trademarks by it or its permitted sublicensees will include such notices of registration as are required or authorized from time to time under applicable law.

(c) Each Borrower agrees to take all necessary steps, including, without limitation, in the U.S. Patent and Trademark Office or in any court, to (i) maintain each Trademark owned by it, and (ii) pursue each such application for trademark registration, now or hereafter included in the Trademarks under this Agreement, including, without limitation, the filing of responses to office actions issued by the Patent and Trademark Office, the filing of applications for renewal, the filing of affidavits under Sections 8 and 15 of the United States Trademark Act, the participation in opposition, cancellation and infringement and misappropriation proceedings and the payment of fees and taxes incurred in connection therewith. Each Borrower agrees to take corresponding steps with respect to each new or acquired trademark, trademark registration, or application therefor covered by Paragraph 3 hereof. Any expenses incurred in connection with such activities shall be borne by the Borrowers, and each Borrower agrees to promptly provide the Agent with written notice of any such actions or proceedings.

(d) Until termination of this Agreement pursuant to Section 7, no Borrower will enter into any agreement which is inconsistent with such Borrower's obligations under this Agreement without the Agent's prior written consent, which consent shall be granted or denied in good faith.

(e) Notwithstanding the foregoing, if any Borrower determines, in its reasonable business judgment, that any Trademark of such Borrower is not material to such Borrower's business, such Borrower may, upon prior written notice to the Agent, elect not to pursue any infringement action with respect to such Trademark or otherwise maintain such Trademark.

6. Remedies Upon Default; Power of Attorney

(a) In addition to the grant of the security interest contained in Paragraphs 1 and 3 hereof, if any Event of Default shall have occurred and be continuing, upon the election of the Agent, all right, title and interest in and to the Trademarks shall be automatically granted, assigned, conveyed and delivered to the Agent or its designee. Each Borrower hereby irrevocably constitutes and appoints the Agent and any officer, agent or employee thereof, with full power of substitution, as its true and lawful attorney-in-fact with full irrevocable power and authority in the place and stead of such Borrower and in the name of such Borrower or the Agent's own name or the name of the Agent's designee, all acts of said attorney being hereby ratified and confirmed, upon the occurrence and during the continuance of an Event of Default: (i) to complete, date, execute and file, or cause to be filed, the Assignment attached hereto as **Exhibit A** and incorporated hereby by reference (the "Assignment") in the United States Patent and Trademark Office and in all other applicable offices, and to execute and deliver any and all documents and instruments which may be necessary or desirable to accomplish the purpose of the Assignment, including, without limitation, the right (but not the obligation) to prosecute applications in the name of such Borrower or the Agent, and to take any other actions deemed necessary by the Agent in good faith to maintain such registrations in effect; (ii) to collect proceeds from the Trademarks (including, by way of example, license royalties and proceeds of infringement suits); (iii) to convey in any transaction authorized by the Loan Agreement, any Goods covered by the registrations applicable to the Trademarks to any purchaser thereof; and (iv) to make payment or to discharge taxes or liens levied or placed upon or threatened against any goods covered by the Trademarks, the legality or validity thereof and the amounts necessary to discharge the same to be determined by the Agent in its sole discretion, and such payments made by the Agent to become the obligations of the Borrowers to the Agent, due and payable immediately without demand. Such power, being coupled with an interest, is irrevocable.

(b) The Agent shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by applicable law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be enforceable, and, without limiting the generality of the foregoing, the Agent may, if any Event of Default under the Loan Agreement shall have occurred and be continuing, immediately, without demand or performance and without other notice (except as set forth below) or demand whatsoever to any Borrower, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the Trademarks,

together with the goodwill of the business symbolized by the Trademarks, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds in accordance with the Loan Agreement. Notice of any sale or other disposition of the Trademarks shall be given to Durango Paper Company, in its capacity as agent for the Borrowers, at least ten (10) Business Days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which each Borrower hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, the Agent or any Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of any Borrower, which right is hereby waived and released. Each Borrower hereby agrees to execute any documents reasonably requested by the Agent in connection with any disposition hereunder.

(c) Upon the occurrence of the conditional assignment provided for herein, no Borrower shall have any right, title, or interest in or to any of the Trademarks and each Borrower shall cease and desist in the use of the Trademarks and of any colorable imitation thereof, and the Agent shall be entitled to exercise all of its rights and remedies with respect to the Goods and the other Collateral as provided for in the Loan Agreement and the other Loan Documents.

7. Termination of Agreement.

At such time as the Borrowers shall completely satisfy all of the Obligations and the Commitments shall have been terminated, the Agent shall execute and deliver to each Borrower all deeds, assignments and other instruments as may be necessary or proper to re-vest in such Borrower title to its respective Trademarks and the goodwill of the business symbolized by such Trademarks, subject to any disposition thereof which may have been made by the Agent pursuant hereto. Thereafter, this Agreement shall terminate.

8. Limitation of Liability and Indemnification.

Each Borrower hereby releases the Agent and the Lenders from, and agrees to hold the Agent and the Lenders free and harmless from and against, any claims arising out of any action taken or omitted to be taken with respect to the Trademarks (except to the extent of the Agent's or the Lenders' gross negligence, willful misconduct or criminal acts), and each Borrower agrees to indemnify the Agent and the Lenders from and against any and all claims, demands, suits, losses, damages or other expenses (including reasonable attorneys' fees) arising from or in any way related to the Trademarks and any trademark infringement claim (except to the extent of the Agent's or the Lenders' gross negligence, willful misconduct or criminal acts).

9. Waiver and Amendment.

(a) No course of dealing between any Borrower and the Agent or the Lenders, nor any failure to exercise, nor any delay in exercising, on the part of the Agent or the Lenders, any right, power or privilege hereunder or thereunder shall preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) This Agreement is subject to modification only by a writing signed by the parties hereto.

10. Cumulative Rights.

All of the Agent's and the Lenders' rights and remedies with respect to the Trademarks, whether established hereby or under the Loan Agreement, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

11. Severability.

The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

12. Survival.

The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties hereto.

13. Counterparts.

This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart (including, without limitation, via facsimile).

14. Choice of Law.

The validity, construction and enforcement of this Agreement, and the determination of the rights and duties of the parties hereto shall be governed by, and construed and enforced in accordance with, the internal laws in effect in the State of Georgia.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the day and year first above written.

BORROWERS:

DURANGO PAPER COMPANY

By: [Signature]
Name: Gabriel Villegas Salazar
Title: Secretary

DURANGO GEORGIA PAPER COMPANY

By: [Signature]
Name: Gabriel Villegas Salazar
Title: Secretary

DURANGO GEORGIA SALES COMPANY

By: [Signature]
Name: Gabriel Villegas Salazar
Title: Secretary

DURANGO GEORGIA CONVERTING CORPORATION

By: [Signature]
Name: Gabriel Villegas Salazar
Title: Secretary

DURANGO GEORGIA CONVERTING, LLC

By: [Signature]
Name: Gabriel Villegas Salazar
Title: Secretary

ST. MARYS RAILROAD, LLC

By: _____

Name: Gabriel Villegas Salazar

Title: Secretary

AGENT:

BANK OF AMERICA, N.A., as Agent

By: _____

Name: Andrew H. Doherty

Title: Vice President

SCHEDULE A

Listing of Trademark Registrations and Applications

Mark	Reg. No.	Reg. Date	Class	Owner
MAGICOTE	930,529	3/7/72	16	Durango Georgia Paper Company
SUPER STANDARD	1,129,558	1/22/80	16	Durango Georgia Paper Company
SWEEPSTAKES	743,949	1/22/63	16	Durango Georgia Paper Company
DISPOZIT	907755	2/16/71	16	Durango Georgia Converting Corporation
ECOCLAIM	2,395,948	11/24/99	16	Durango Georgia Converting, LLC
PROMINENCE	75/857317	11/24/99	16	Durango Georgia Converting, LLC
SKYBRITE	75/857422	11/24/99	16	Durango Georgia Converting, LLC

Other common law Trademarks / Service Marks

SKYPAC
SKYPAC-5
SKYPAC PLUS

SCHEDULE B

Liens and Claims of Third Parties

EXHIBIT A

Assignment of Trademarks and Goodwill

THIS ASSIGNMENT, dated as of the ___ day of _____, 20___, from _____, a _____ (the "Assignor"), to BANK OF AMERICA, N.A., as Agent (the "Assignee"), recites and provides:

WHEREAS, the Assignor is the owner of certain trademarks and service marks and the registrations and applications to register therefor listed on Schedule A hereto (the "Trademarks"); and

WHEREAS, the Assignee desires to obtain for the Lenders party to the Loan and Security Agreement, dated as of January ___, 2001, among the Assignor, certain affiliates of the Assignor, the Assignee and the lenders from time to time party thereto (the "Lenders") all of the Assignor's right, title and interest in all such Trademarks.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Assignor hereby grants, assigns and conveys to the Assignee, its successors and assigns, the entire right, title and interest of the Assignor in and to the Trademarks, including without limitation all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), and the right to sue for past, present and future infringements, together with the goodwill of the business symbolized by the Trademarks. The Assignor acknowledges that it has granted the Assignee the right to secure the assets of the Assignor associated with the business symbolized by the Trademarks, under separate agreement.

The Assignor further agrees to execute such further instruments and documents and perform such further acts as the Assignee may deem necessary in good faith to secure to the Assignee the rights herein conveyed.

The Assignor warrants and represents that it is the sole owner of the interest conveyed hereunder and that such interest is not the subject of any prior transfer, assignment, lien, mortgage or other transaction which would affect the Assignor's ability to transfer such interest.

The Assignor further agrees to indemnify the Assignee and the Lenders for any breach of the above warranty.

IN WITNESS WHEREOF, the Assignor has executed this Assignment as of the day and year first above written.

[Borrower's name]

By: _____

Name: _____

Title: _____

SCHEDULE A

Listing of Trademark Registrations and Applications

0657269.04
Conditional Assignment and
Trademark Security Agreement

TROUTMAN SANDERS LLP

A T T O R N E Y S A T L A W
A LIMITED LIABILITY PARTNERSHIP

BANK OF AMERICA PLAZA
600 PEACHTREE STREET, N.E. - SUITE 5200
ATLANTA, GEORGIA 30308-2216
www.troutmansanders.com
TELEPHONE: 404-885-3000
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Daniele E. Bourgeois
daniele.bourgeois@troutmansanders.com

Direct Dial: 404-885-3406
Direct Fax: 404-962-6785

August 24, 2001

Commissioner of Patents and Trademarks
Box Assignments
Washington, D.C. 20231

Re: Bank of America, N.A.
Our Reference: 10644.108001

Honorable Commissioner:

Enclosed please find the following:

- (1) Recordation Form Cover Sheet dated August 24, 2001;
- (2) Conditional Assignment and Trademark Security Agreement;
- (3) This firm's check in the amount of \$90.00; and
- (4) Return postcard.

If any additional or deficient fees are deemed to be payable, please charge our Deposit Account No. 20-1507.

Respectfully submitted,

TROUTMAN SANDERS LLP

By: *Daniele E. Bourgeois*
Daniele E. Bourgeois

Enclosures

cc: Stephen D. Palmer, Esq.

CERTIFICATE OF EXPRESS MAIL UNDER 37 CFR 1.10

Express Mail Mailing Label No. EL755878185US

Date of Deposit: August 24, 2001

I hereby certify that this paper is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner for Patents and Trademarks, Box Assignments, Washington, D.C. 20231.

DANIELE E. BOURGEOIS

Daniele E. Bourgeois
Date of Signature: August 24, 2001

0770378.02

RECORDED: 08/24/2001

TRADEMARK
REEL: 002358 FRAME: 0309