

06-12-2001

Docket No.: 31263-1001

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office



101750092

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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):

STEVE E. FOUTZ

and

F & B, LLC

6-501

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

3. Nature of conveyance:

☐ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☒ Other Assignment and License Agreement

Execution Date: 2/8/01, 2/9/01 and 5/18/01

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

Name: HOUSTON T. BARNES

Address: Post Office Box 36

City: Flora Vista

State/Prov.: NM

Country: US

ZIP: 87415

Additional name(s) & address(es) attached? ☐ Yes ☒ No

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

If this document is being filed together with a new application, the execution date of the application is: \_\_\_\_\_

Patent Application No.

Filing date

B. Patent No.(s)

60/189,641

March 14, 2000

5,493,796

issued

PCT/US01/08249

March 14, 2001

Feb 27 1996

Additional numbers attached? ☐ Yes ☒ No

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

Name: Deborah A. Peacock

Registration No. 31,649

Address: Peacock, Myers & Adams, P.C.

Post Office Box 26927

City: Albuquerque

State/Prov.: NM

Country: US

ZIP: 87125-6927

6. Total number of applications and patents involved: 3

7. Total fee (37 CFR 3.41):.....\$ 120.00

☒ Enclosed - Any excess or insufficiency should be credited or debited to deposit account

☐ Authorized to be charged to deposit account

8. Deposit account number:

13-4213

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.

Deborah A. Peacock

Name of Person Signing

Signature

June 1, 2001

Date

Total number of pages including cover sheet, attachments, and document: 8

8

DO NOT USE THIS SPACE

PATENT

REEL: 011871 FRAME: 0118

## **ASSIGNMENT AND LICENSE AGREEMENT**

This Assignment and License Agreement ("Agreement") is among F&B, LLC ("F&B"), Foutz and Bursum Construction Company, Inc. ("Foutz/Bursum"), Steve E. Foutz ("Foutz") and Houston T. Barnes ("Barnes").

### **Background**

1. F&B owns all rights to the patent and trademark rights set forth in the Appendix ("Patent and Trademark Rights").
2. The owners of F&B are currently Foutz and Barnes.
3. Foutz owns Foutz/Bursum which utilizes or may utilize the Patent and Trademark Rights in accordance with the terms of this Assignment and License Agreement.
4. Foutz desires to have 100% ownership interest in F&B. Barnes desires to own all rights to Patent and Trademark Rights. Foutz or Foutz/Bursum desire to utilize a certain number of products relating to the Patent and Trademark Rights.

### **Agreement**

The parties agree as follows.

5. Assignment. For valuable consideration received or to be received and hereby acknowledged, including the license set forth herein, F&B hereby sells, assigns and transfers unto Barnes, his successors and assigns, the entire interest for the United States of America and all foreign countries, including all rights of priority under the international conventions and treaties, in and to the Patent and Trademark Rights set forth in the Appendix.
6. Cooperation. Foutz and Barnes each agree to execute all applications, amended specifications, deeds or other instruments, and to do all acts necessary to vest and confirm in Barnes the legal and equitable title and benefit of all such Patent and Trademark Rights.

3F HB

7. Warrant. F&B warrants that the Patent and Trademark Rights have not been previously assigned, mortgaged or otherwise encumbered, and F&B has full right, power and authority to assign all such rights to Barnes.

8. License. Barnes, after the grant of all Patent and Trademark Rights hereunder, hereby grants to F&B a paid-up, royalty free, irrevocable, non-exclusive license to make and use at any one time up to 15 padding buckets and 2 bench padders that may bear the trademark PAD MORE ("Licensed Products"), that, but for this license, would infringe upon the Patent and Trademark Rights. Foutz/Bursum shall have the right to assign this license right in its entirety to an affiliate or subsidiary or successor of any of Foutz/Bursum or Foutz or F&B. For purposes of this Agreement the term "affiliate or subsidiary" shall include any entity which, if such entity and F&B were both corporations, would with F&B or Foutz/Bursum be part of a controlled group of corporations, a brother-sister controlled group, or a combined group, all as defined in Internal Revenue Code Section 1563(a). For purposes of this Agreement, the term "successor" means a successor by sale, exchange, or merger to substantially all of the business assets of F&B or Foutz/Bursum. This license shall not include any right to sell the Licensed Products to third parties.

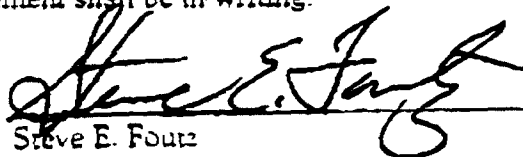
9. Despite any language contained herein to the contrary, the license granted herein is to be construed as one license. Any transfer or assignment of this license must be a transfer or assignment of the license in its entirety. Foutz/Bursum, F&B, or any of their successors or assigns may not transfer or assign a portion or part of their license assigned herein.

In the event that this license is transferred to a successor company of Foutz/Bursum or F&B, then said successor company shall be bound by the terms of this Assignment and License Agreement. Said successor company may only transfer said license by sale, exchange, or merger of substantially all of the business assets to another successor company.

It is the intent of this Assignment and License Agreement that the license granted herein not be alienated or separated from the business assets previously owned by Foutz/Bursum or F&B.

10. Intellectual Property Costs/Fees. As of November 1, 2000, Barnes shall assume all costs and legal fees for Patent and Trademark Rights, including all billings sent after November 1, 2000 but incurred prior to November 1, 2000 Barnes shall make arrangements with. a) Peacock, Myers & Adams, P.C. ("PMA"), the patent firm currently prosecuting all Patent and Trademark Rights, to continue with representation concerning such Patent and Trademark Rights; or b) another patent law firm to prosecute and maintain Patent and Trademark Rights. If Barnes continues with PMA. a) Foutz agrees on behalf of himself and F&B that PMA may represent Barnes as to Patent and Trademark Rights, but not anything involving a conflict with Foutz; and b) Barnes agrees on behalf of himself and F&B that PMA may represent Foutz concerning any matters related to this Agreement and future matters related or unrelated to Patent and Trademark Rights, but not anything involving a conflict with Barnes

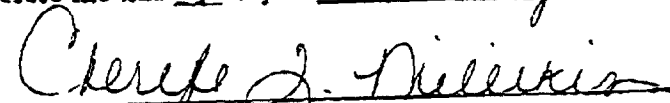
10. Miscellaneous. This Agreement shall be binding on the parties and their heirs, administrators, estates, successors and assigns of every kind. The laws of the State of New Mexico shall control. Any amendment to this Agreement shall be in writing.

  
Steve E. Foutz

STATE OF NEW MEXICO                    )  
  ) ss.  
COUNTY OF SAN JUAN                 )

This instrument was acknowledged before me this 9 day of February, 2001, by Steve E. Foutz.

My commission expires:  
12/4/2004.

  
Notary Public

SF

Houston T. Barnes  
Houston T. Barnes

STATE OF NEW MEXICO )  
COUNTY OF San Juan ) ss.

This instrument was acknowledged before me this 9<sup>th</sup> day of February, 2001,  
by Houston T. Barnes.

My commission expires:

3/24/2001

Quinn L. Blane  
Notary Public

F&B, LLC

By Steve E. Foutz  
Steve E. Foutz

STATE OF NEW MEXICO )  
COUNTY OF San Juan ) ss.

This instrument was acknowledged before me this 8 day of February, 2001,  
by Steve E. Foutz on behalf of F&B, LLC.

My commission expires:

12/4/2004

Cheryl L. McKinis  
Notary Public

F&B, LLC

By Houston T. Barnes  
Houston T. Barnes

STATE OF NEW MEXICO )  
COUNTY OF San Juan ) ss.

This instrument was acknowledged before me this 9<sup>th</sup> day of February, 2001,  
by Houston T. Barnes on behalf of F&B, LLC.

My commission expires:

Christine L. Stone  
Notary Public

3/24/2001

FOUTZ AND BURSUM CONSTRUCTION  
COMPANY, INC.

Steve E. Foutz  
Steve E. Foutz

STATE OF NEW MEXICO )  
COUNTY OF SAN JUAN ) ss.

This instrument was acknowledged before me this 8 day of February, 2001,  
by Steve E. Foutz on behalf of Foutz and Bursum Construction Company, Inc

My commission expires:

Cheryl A. Miller  
Notary Public

12/1/2004

N:\JOHN\FOUTZ\Houston Barnes\Assign&License\003.wpd

S  
SF

H.B.

APPENDIX

U.S. Patent No. 5,493,796, issued February 27, 1996  
filed as USSN 08/280,634 (July 25, 1994)  
PIPELINE PADDING APPARATUS

Argentina Serial No. P95010018 (formerly 334249)  
Filing date November 16, 1995  
PIPELINE PADDING APPARATUS

Australian Patent No. 719948 issued as of international filing date, October 23, 1995  
filed as Australian Serial No. 39664/95 on May 21, 1998  
PIPELINE PADDING APPARATUS

Canada Serial No. 2,238,477  
Filing date: 5/25/98  
PIPELINE PADDING APPARATUS

Chile Serial No. 1761-95  
Filing date: November 16, 1995  
PIPELINE PADDING APPARATUS

Ecuador Original Utility Model Certificate Reg. No. MU-99-083 grant date July 29, 1999  
filed as Ecuador Serial No. PT 95-203271  
Int'l filing Date: October 23, 1995  
PIPELINE PADDING APPARATUS

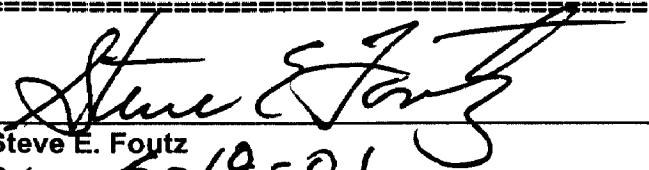
European Serial No. 95937604.7  
Int'l filing Date: October 23, 1995  
Publication No. 0 865 543 (9/23/98)  
PIPELINE PADDING APPARATUS

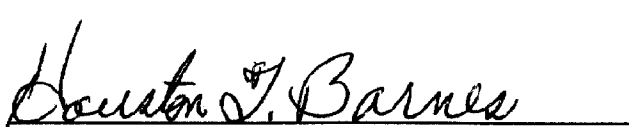
Venezuela Serial No. 2085/95  
Filing date: November 19, 1995  
PIPELINE PADDING APPARATUS

U.S. Provisional Serial No. 60/189,641  
Filing date: March 14, 2000  
MATERIAL SEPARATING APPARATUS AND METHOD FOR USING SAME

Patent Cooperation Treaty (PCT) Application Serial No. PCT/US01/08249  
Filing date: March 14, 2001  
MATERIAL SEPARATING APPARATUS AND METHOD FOR USING SAME

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Trademark: PAD MORE  
U.S. Registration No. 2,334,918  
Registered owner: F&B, L.L.C. (Partnership)  
=====

  
Steve E. Foutz  
Date: 5-18-01

  
Houston T. Barnes  
Date: 5-18-01



