

06-15-2001



Form PTO-1595 (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

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): American Pipe And Plastics, Inc.

2. Name and address of receiving party(ies)

Name: Webster Bank

Internal Address: CityPlace II

Street Address: 185 Asylum Street

City: Hartford State: CT Zip: 06103

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: May 30, 2001

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

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

A. Patent Application No.(s)

09/629,174

B. Patent No.(s)

5,999,683 5,372,388 5,385,173 5,273,414 5,346,658 5,213,727

Additional numbers attached? Yes No

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

Name: Michelle Walters Fournier, RP Senior Paralegal Internal Address: c/o Bingham Dana LLP

Street Address: One State Street

City: Hartford State: CT Zip: 06103

6. Total number of applications and patents involved: 7

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

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

(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.

Jeffrey B. Zeman Name of Person Signing

Signature

6/8/01 Date

Total number of pages including cover sheet, attachments, and documents: 12

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

06/14/2001 LMJELLER 00000102 09629174

01 FC:581

280.00 DP

PATENT REEL: 011874 FRAME: 0851

## PATENT COLLATERAL SECURITY AGREEMENT

THIS PATENT COLLATERAL SECURITY AGREEMENT (the "**Agreement**") is made on the 30th day of May, 2001 between **AMERICAN PIPE AND PLASTICS, INC.**, a New York corporation having a mailing address at 958 Route 11 South, Kirkwood, New York 13795 ("**Obligor**"), and **WEBSTER BANK**, a federal savings bank having a mailing address of CityPlace II, 185 Asylum Street, Hartford, Connecticut 06103 (the "**Bank**").

**BACKGROUND.** Prior to the execution of this Agreement, (i) American Pipe & Plastics Acquisition Corp., a Delaware corporation ("**Acquisition**"), has executed and delivered in favor of the Bank a Revolving Credit Note of even date herewith in the principal amount of up to \$6,000,000, a Term A Note of even date herewith in the principal amount of \$3,060,000, and a Term B Note of even date herewith in the principal amount of \$740,000 (collectively the "**Notes**"), and (ii) in connection with the Notes, Acquisition and the Bank have entered into that certain Credit Agreement of even date herewith (the "**Credit Agreement**") (the Notes, the Credit Agreement and any other documents executed in contemplation thereof, collectively referred to as the "**Loan Documents**"). In order to secure payment of the Notes, Acquisition has entered and delivered, as one of the Loan Documents, a Security Agreement, of even date herewith, by and among the Bank and Acquisition (the "**Security Agreement**"). The collateral under the Security Agreement includes, without limitation, all rights, title, and interest of Acquisition in and to any and all present and future patents and patent applications. The Security Agreement also provides that Acquisition will execute and deliver certain documents that the Investor may request from time to time, including without limitation any separate patent security agreements. Immediately after the execution of the Notes and Credit Agreement, Acquisition merged with and into Obligor, and, pursuant to applicable law and a certain Assumption and Reaffirmation Agreement of even date herewith among Obligor, Acquisition and Bank, Obligor has assumed all of Acquisition's obligations under the Loan Documents, including without limitation, all security interests and other obligations under the Security Agreement so that (i) the security interest under the Security Agreement now applies to all patents and patent applications of the Obligor, including without limitation the Patents (as hereinafter defined) and (ii) the duty to deliver separate patent security agreements is now the duty of the Obligor. The parties hereto reaffirm their respective duties and obligations pursuant to the Loan Documents, including without limitation the Security Agreement, and consistent with such duties and obligations file herewith Schedule A (as hereinafter described).

NOW, THEREFORE, in consideration of the premises, and for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Obligor hereby agrees with Bank as follows:

1. To secure the complete and timely satisfaction of all Obligations (as defined in that certain Security Agreement by and between Bank and Obligor, of even date herewith), Obligor hereby grants and conveys to Bank a security interest in the entire right, title and interest in and to the patents and applications therefor listed in Schedule A hereto (as the same may be amended from time to time), including all reissues, divisions, continuations, renewals,

extensions and continuations-in-part thereof, any foreign counterparts thereto, the right to sue for past, present and future infringements (subject to Paragraph 11 below) and without limitation all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), as well as all rights corresponding thereto throughout the world (collectively called the "Patents").

2. Obligor covenants and warrants that:

- (a) The Patents are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;
- (b) To the best of Obligor's knowledge, each of the Patents is valid and enforceable;
- (c) Obligor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Patents, and the Patents, except as expressly permitted by the Credit Agreement, are free and clear of any liens, charges and encumbrances, including without limitation pledges, assignments, licenses, shop rights and covenants by Obligor not to sue third persons except as set forth in the Credit Agreement and pursuant to the documents and instruments evidencing the Subordinated Debt (as such term is defined in the Credit Agreement); and
- (d) Obligor has the unqualified right to enter into this Agreement and perform its terms and has entered and will enter into written agreements with each of its present and future employees, agents and consultants, in each case to the extent (if any) such agreements are necessary to enable it to comply with the covenants herein contained.

Except as specifically set forth above, Obligor does not warrant that the Patents will not be declared invalid if challenged in court.

3. Obligor agrees that, until all of the Obligations shall have been satisfied in full, it will not enter into any agreement which is inconsistent with Obligor's obligations under this Agreement, without the prior written consent of the Bank, which consent shall not be unreasonably withheld.

4. If, before the Obligations shall have been satisfied in full, Obligor shall obtain rights to any new patentable inventions, or become entitled to the benefit of any patent application or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of Paragraph 1 shall automatically apply thereto and Obligor shall give to Bank prompt notice thereof in writing.

5. Obligor authorizes Bank to modify this Agreement by amending Schedule A to include any future patents and patent applications which are Patents under Paragraph 1 or Paragraph 4 hereof.

6. If any Event of Default described in the Credit Agreement shall have occurred and be continuing, the Bank shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents may be located and, without limiting the generality of the foregoing, the Bank may immediately, without demand of performance and without other notice (except as set forth below and except for any other notices expressly provided for in the Credit Agreement, the Notes or other related document) or demand whatsoever to Obligor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the whole or from time to time any part of the Patents, or any interest which the Obligor may have therein, and after deducting from the proceeds of sale or other disposition of the Patents all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to the Obligor. Notice of any sale or other disposition of the Patents shall be given to Obligor at least ten (10) days before the time of any intended public or private sale or other disposition of the Patents is to be made, which Obligor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, any holder of any Note or Bank may, to the extent permissible under applicable law, purchase the whole or any part of the Patents sold, free, to the extent permitted by applicable law, from any right of redemption on the part of Obligor, which right is hereby waived and released.

7. If any Event of Default shall have occurred and be continuing, Obligor hereby authorizes and empowers Bank to make, constitute and appoint any officer or agent of Bank, as Bank may select in its exclusive discretion, as Obligor's true and lawful attorney-in-fact, with the power to endorse Obligor's name on all applications, documents, papers and instruments necessary for Bank to use the Patents, or to grant or issue any exclusive or nonexclusive license under the Patents to any third person, or necessary for Bank to assign, pledge, convey or otherwise transfer title in or dispose of the Patents to any third person, Obligor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

8. At such time as all of the Obligations are completely satisfied, this Agreement shall terminate and Bank shall execute and deliver to Obligor all Uniform Commercial Code termination statements, deeds, assignments and other instruments as may be necessary or proper to terminate the security interest provided for herein and re-vest in Obligor full title to the Patents, subject to any disposition thereof which may have been made by Bank pursuant hereto.

9. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses incurred by Bank in connection with the preparation of this Agreement and all other documents relating hereto and the

consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances (other than those permitted by the Credit Agreement) or otherwise protecting, maintaining or preserving the Patents, or in defending or prosecuting any actions or proceedings arising out of or related to the Patents, shall be borne and paid by Obligor on demand by Bank and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the highest rate prescribed in the Notes.

10. Obligor shall have the duty, through counsel acceptable to Bank, to (i) prosecute diligently any patent applications of the Patents pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full, (ii) if in Obligor's reasonable business judgment it is prudent to do so, make application on unpatented but patentable inventions, and (iii) preserve and maintain all rights in patent applications and patents of the Patents, including without limitation the payment of all maintenance fees; provided, however, that so long as no Event of Default is then continuing, Obligor may (at its election) not prosecute such applications, and may (at its election) permit to lapse or expire those Patents, which, but for this Agreement, Obligor would, in its reasonable and ordinary business judgment (a) not prosecute or (b) permit to lapse or expire, as the case may be. Any expenses incurred in connection with such an application shall be borne by Obligor. The Obligor shall not abandon any right to file a patent application, or any pending patent application or patent without the consent of the Bank, which consent shall not be unreasonably withheld, provided, however, that so long as no Event of Default is then continuing, Obligor may abandon any such right or pending application in its reasonable and ordinary business judgment.

11. Obligor shall have the right to bring suit in its own name, and to join Bank, if necessary, as a party to such suit so long as Bank are satisfied that such joinder will not subject them to any risk of liability, to enforce the Patents and any licenses thereunder. Obligor shall promptly, upon demand, reimburse and indemnify Bank for all damages, costs and expenses, including legal fees, incurred by Bank pursuant to this Paragraph 11.

12. No course of dealing between Obligor and Bank, nor any failure to exercise, nor any delay in exercising, on the part of Bank, any right, power or privilege hereunder or under the Loan Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

13. All of Bank's rights and remedies with respect to the Patents, whether established hereby or by the Loan Documents, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

14. 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 clause or provision of this Agreement in any Jurisdiction.

15. Subject to Paragraph 5 hereto, no amendment or modification to this Agreement shall be effective unless the same shall be in writing and executed by the parties hereto.

16. 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.

17. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the internal laws of the State of Connecticut without reference to its conflict of laws provisions.

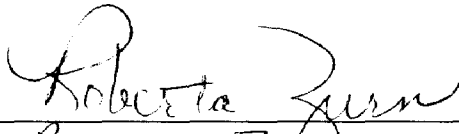
18. Nothing herein or in any other document shall be construed to release or terminate (except pursuant to documents executed pursuant to Paragraph 8) any lien, mortgage, pledge or other security interest in favor of Bank.

*[The remainder of this page intentionally left blank; the next page is the signature page]*

WITNESS the execution hereof under seal as of the day and year first above written.


**OBLIGOR**

**AMERICAN PIPE AND PLASTICS, INC.**

By:   
ROBERTA ZURN  
Its President  
Duly Authorized

**BANK**

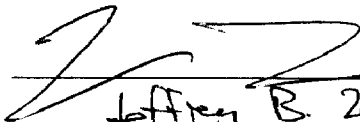
**WEBSTER BANK**

By:   
William H. Creaser  
Its Vice President  
Duly Authorized

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF CONNECTICUT )  
 ) ss: Hartford  
COUNTY OF HARTFORD )

On this 30<sup>th</sup> day of May, 2001, before me, the undersigned officer, personally appeared Roberta Zorn, President of American Pipe And Plastics, Inc., a corporation, signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of said corporation.

  
\_\_\_\_\_  
Jeffrey B. Zeman  
~~Commissioner of the Superior Court~~  
~~Notary Public~~  
~~My Commission Expires: \_\_\_\_\_~~  
Notary Public


**JEFFREY B. ZEMAN**  
**NOTARY PUBLIC**  
**MY COMMISSION EXPIRES JAN. 31, 2003**



CERTIFICATE OF ACKNOWLEDGMENT

STATE OF CONNECTICUT        )  
  ) ss: Hartford  
COUNTY OF HARTFORD        )

On this 29<sup>th</sup> day of May, 2001, before me, the undersigned officer, personally appeared William H. Creaser, Vice President of Webster Bank, a federal savings bank, signer and sealer of the foregoing instrument and acknowledged the same to be his free act and deed and the free act and deed of said federal savings bank.

  
~~Jeffrey B. Zeman~~  
~~Commissioner of the Superior Court~~  
~~Notary Public~~  
~~My Commission Expires:~~  
~~Notary Public~~

**JEFFREY B. ZEMAN**  
**NOTARY PUBLIC**  
**MY COMMISSION EXPIRES JAN. 31, 2003**

Schedule A

Patents/Patent Applications

[see attached]

**Schedule A**

1. See attached document.
2. US Patent No. 5,999,683 for a clip device for conduits containing optical fibers dated December 7, 1999 by Kjell-Ake Leif Gustafsson, as assigned to American Pipe And Plastics, Inc ("Target").
3. Patent pending, U.S. Application. No. 09/629,174 for a machine and method for providing folded pipe liners by Mark Thompson and assigned to Target on September 29, 2000 by written assignment, in accordance with the related Agreement dated April 14, 2000 by and between Target and Mark Thompson (individually and doing business as Express Industries).

**American Pipe & Plastics, Inc.**

Patent report by invention

Printed: 4/10/2001

Page 1

COUNTRY	REFERENCE#	TYPE	FILED	SERIAL#	ISSUED	PATENT#	STATUS
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**METHOD AND APPARATUS FOR INSTALLING A PIPE LINER**

Inventor: Gargiulo, Joseph L.

UNITED STATES	12080/40006	NEW	1/22/1993	08/007,600	12/28/1993	5,273,414	ISSUED
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**INTEGRAL MULTI-DUCT CONDUIT SECTION**

Inventor: Gargiulo, Joseph L.

CANADA	85931.000004	CEQ	4/19/1994	2,121,807	8/19/1997	2,121,607	ISSUED
UNITED STATES	12080/40007	NEW	4/30/1993	08/056,280	12/13/1994	5,372,388	ISSUED

**METHOD AND APPARATUS FOR INSTALLING A PIPE LINER**

Inventor: Gargiulo, Joseph L.

AUSTRALIA	85931.000008	CEQ	5/27/1992	17212/82	5/27/1992	658,183	ISSUED
CANADA	86931.000006	CEQ	5/21/1992	2,069,155	2/4/1997	2,069,155	ISSUED
CHINA	85931.000007	CEQ	5/2/1992	82104253.1	4/16/1998	82104253.1	ISSUED
EUROPEAN PATENT CO	12090/60002	CEQ	6/2/1992	82303059.5			ABANDONED
JAPAN	12090/50003	CEQ	5/2/1992	141658/92			ABANDONED
TAIWAN	12090/30004	CEQ	5/5/1992	81103497	4/15/1995	N-69156	ABANDONED
UNITED STATES	12090/40003	NEW	6/5/1993	08/069,016	8/13/1994	5,846,658	ISSUED

**PIPE LINER COMPOSITION**

Inventor: Gargiulo, Joseph L.

AUSTRIA	85931.000018	DCA	6/28/1994	94918132.5	8/30/2000	0700496	ISSUED
BELGIUM	85931.000019	DCA	5/26/1994	94918132.6	8/30/2000	0700495	ISSUED
CANADA	85931.000003	DCA	6/28/1994	2,181,780	9/1/1998	2,181,780	ISSUED
GERMANY	85931.000020	DCA	8/26/1994	94918132.5	8/30/2000	68425739.7	ISSUED
DENMARK	85931.000021	DCA	4/28/1994	94918132.6	8/30/2000	0700498	ISSUED
EUROPEAN PATENT CO	85931.000014	DCA	5/26/1994	94918132.6	8/30/2000	0700496	NAT PHASE
FRANCE	85931.000022	DCA	5/26/1994	94918132.5	8/30/2000	0700496	ISSUED
UNITED KINGDOM	85931.000027	DCA	5/26/1994	94918132.5	8/30/2000	0700496	ISSUED
IRELAND	85931.000023	DCA	5/26/1994	94918132.5	8/30/2000	0700496	ISSUED
ITALY	85931.000024	DCA	5/26/1994	94918132.5	8/30/2000	0700496	ISSUED
JAPAN	85931.000012	DCA	11/27/1985	50055/85			PENDING
NETHERLANDS	85931.000025	DCA	5/26/1994	94918132.5	8/30/2000	0700498	ISSUED
SWEDEN	85931.000028	DCA	5/26/1994	94918132.5	8/30/2000	0700496	ISSUED
UNITED STATES	12090/40001	NEW	5/23/1993	08/069,570	1/31/1995	5,385,173	ISSUED
WIPO	12090/50007	CEQ	3/26/1994	PCT/US94/05924			NAT PHASE

**METHOD FOR INSTALLING A PIPE LINER**

Inventor: Gargiulo, Joseph L.

UNITED STATES	12090/40002	NEW	6/3/1991	07/709,635	5/25/1993	5,213,727	ISSUED
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**PIPE LINER COMPOSITION**

Inventor: Gargiulo, Joseph L.

UNITED STATES	12090/40001a	NEW	8/3/1991	07/763,797			ABANDONED
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**METHOD AND APPARATUS FOR INSTALLING A PIPE LINER**

Inventor: Gargiulo, Joseph L.

UNITED STATES	12090/40003a	NEW	1/10/1992	07/818,618			ABANDONED
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END OF REPORT

TOTAL ITEMS SELECTED = 28