

314104

03-09-2004

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



U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

To the Honorable Commissioner c

102692820

... original documents or copy thereof.

<p>1. Name of conveying party(ies):</p> <p>Big Smith Holdings, Inc.</p> <p><input type="checkbox"/> Individual(s)                      <input type="checkbox"/> Association</p> <p><input type="checkbox"/> General Partnership              <input type="checkbox"/> Limited Partnership</p> <p><input checked="" type="checkbox"/> Corporation-State Texas</p> <p><input type="checkbox"/> Other _____</p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>		<p>2. Name and address of receiving party(ies)</p> <p>Name: <u>Wells Fargo Bank, National Association, as Agent</u></p> <p>Internal Address: _____</p> <p>Street Address: <u>1000 Louisiana, 4th Floor</u></p> <p>City: <u>Houston</u> State: <u>TX</u> Zip: <u>77002</u></p> <p><input type="checkbox"/> Individual(s) citizenship _____</p> <p><input checked="" type="checkbox"/> Association <u>National Association</u></p> <p><input type="checkbox"/> General Partnership _____</p> <p><input type="checkbox"/> Limited Partnership _____</p> <p><input type="checkbox"/> Corporation-State _____</p> <p><input type="checkbox"/> Other _____</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No (Designations must be a separate document from assignment)</p> <p>Additional name(s) &amp; address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment                              <input type="checkbox"/> Merger</p> <p><input checked="" type="checkbox"/> Security Agreement                  <input type="checkbox"/> Change of Name</p> <p><input type="checkbox"/> Other _____</p> <p>Execution Date: <u>January 26, 2004</u></p>			
<p>4. Application number(s) or registration number(s):</p> <p>A. Trademark Application No.(s) _____</p> <p>_____</p>		<p>B. Trademark Registration No.(s) <u>1,026,828</u></p> <p>_____</p> <p>Additional number(s) attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: <u>James J. Murphy</u></p> <p>Internal Address: <u>Winstead Sechrest &amp; Minick P.C.</u></p> <p>_____</p> <p>Street Address: <u>P.O. Box 50784</u></p> <p>_____</p> <p>City: <u>Dallas</u> State: <u>TX</u> Zip: <u>75201</u></p>		<p>6. Total number of applications and registrations involved: ..... <span style="border: 1px solid black; padding: 2px;">1</span></p> <p>7. Total fee (37 CFR 3.41).....\$ <u>40.00</u></p> <p><input checked="" type="checkbox"/> Enclosed</p> <p><input checked="" type="checkbox"/> Authorized to be charged to deposit account</p>	
		<p>8. Deposit account number:</p> <p><u>23-2426</u></p>	
<b>DO NOT USE THIS SPACE</b>			
<p>9. Signature.</p> <p><u>James J. Murphy</u></p> <p>Name of Person Signing</p>		<p></p> <p>Signature</p> <p><u>3-3 -04</u></p> <p>Date</p> <p>Total number of pages including cover sheet, attachments, and document: <span style="border: 1px solid black; padding: 2px;">6</span></p>	

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

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**TRADEMARK**  
**REEL: 002923 FRAME: 0842**

## SECURITY INTEREST ASSIGNMENT OF TRADEMARKS

THIS SECURITY INTEREST ASSIGNMENT OF TRADEMARKS (this "Agreement") is entered into as of January 26, 2004, by and between BIG SMITH HOLDINGS, INC., a Texas corporation (the "Debtor"), and WELLS FARGO BANK, NATIONAL ASSOCIATION, as Agent (in such capacity, the "Agent").

### RECITALS:

A. Walls Industries, Inc., Cleburne, Texas (the "Borrower"), Walls Holding Company, Inc. ("Holdings"), certain lenders or other financial institutions or entities parties thereto (the "Lenders") and the Agent are parties to that certain Credit Agreement dated as of January 26, 2004 (as the same may be amended, restated, supplemented or modified from time to time, the "Credit Agreement").

B. Pursuant to the Credit Agreement, the Borrower, Holdings, the subsidiaries of the Borrower (the "Subsidiaries") and the Agent have entered into that certain Amended and Restated Security Agreement dated as of January 26, 2004 (as the same may be amended, restated, supplemented or modified from time to time, the "Security Agreement") which amends and restates (i) that certain Security Agreement dated as of March 20, 1997 executed by and among the Borrower, Holdings, the Subsidiaries and the Agent (as the same has been amended, restated, supplemented or modified from time to time, the "1997 Security Agreement") and (ii) that certain Security Agreement dated as of March 25, 2003 executed by and among the Borrower, Holdings, the Subsidiaries and the Agent (as the same has been amended, restated, supplemented or modified from time to time, the "2003 Security Agreement") pursuant to which the Debtor has granted to the Agent and the Lenders a lien on and security interest in certain Trademarks described therein, including all trademarks, service marks and trademark service mark registrations and applications, both foreign and domestic at any time owned by the Debtor, including without limitation, those described on Exhibit A hereto, and the goodwill represented thereby, and excluding any Trademark that would be rendered invalid, abandoned, void or unenforceable by reason of its being included herein and therein (collectively, the "Trademark Collateral"). Capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Security Agreement.

C. It is a condition to the Agent's and the Lenders' obligations under the Credit Agreement that the parties hereto execute this Agreement to memorialize the granting of the security interest in and to the Trademark Collateral in a form suitable for recording in the United States Patent and Trademark Office.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions of the Security Agreement, the parties hereto agree as follows:

1. Grant of Security Interest. As collateral security for the prompt payment and performance in full when due of the Obligations (whether at stated maturity, by acceleration, or otherwise), the Debtor hereby grants to the Agent and the Lenders a security interest in all of

Debtor's right, title and interest in and to the Trademark Collateral, including all rights and interest associated with the foregoing including any licenses, license rights and royalties of all rights to sue or by opposition or cancellation proceedings for past, present and future infringements of such rights; and all proceeds of the foregoing.

2. After Acquired Trademark Collateral Rights. If the Debtor shall obtain rights to any new Trademark Collateral, the provisions of this Agreement shall automatically apply thereto. The Debtor shall give prompt notice in writing to the Agent with respect to any such new Trademark Collateral or renewal or extension of any Trademark registration. The Debtor shall bear any expenses incurred in connection with future applications for Trademark registration.

3. Assignment. All grants, covenants and agreements contained in this Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns; provided, however, that the Debtor may not delegate or assign any of its duties or obligations under this Agreement without the prior written consent of the Agent. THE AGENT RESERVES THE RIGHT TO ASSIGN ITS RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT IN WHOLE OR IN PART TO ANY PERSON OR ENTITY.

4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted by facsimile or other electronic means shall be effective as originals.

5. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO THE RULES THEREOF RELATING TO CONFLICTS OF LAW. THE DEBTOR HEREBY IRREVOCABLY SUBMITS ITSELF TO THE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN NEW YORK, AND AGREES AND CONSENTS THAT SERVICE OF PROCESS MAY BE MADE UPON IT IN ANY LEGAL PROCEEDING RELATING TO THIS AGREEMENT OR ANY OTHER RELATIONSHIP BETWEEN THE AGENT AND THE DEBTOR BY ANY MEANS ALLOWED UNDER STATE OR FEDERAL LAW. ANY LEGAL PROCEEDING ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY OTHER RELATIONSHIP BETWEEN THE AGENT AND THE DEBTOR SHALL BE BROUGHT AND LITIGATED EXCLUSIVELY IN ANY ONE OF THE STATE OR FEDERAL COURTS LOCATED IN NEW YORK, HAVING JURISDICTION UNLESS THE AGENT SHALL ELECT OTHERWISE. THE PARTIES HERETO HEREBY WAIVE AND AGREE NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE, THAT ANY SUCH PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM OR THAT THE VENUE THEREOF IS IMPROPER.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the Debtor and the Agent have executed this Agreement by their duly authorized officers as of the date first above written.

DEBTOR:

BIG SMITH HOLDINGS, INC.

By: [Signature]  
Name: Michael B. Kramer  
Title: CFO

STATE OF Florida §

§

COUNTY OF Leon §

The foregoing instrument was acknowledged before me this 23 day of January, 2004, by Michael B. Kramer, the CFO of BIG SMITH HOLDINGS, INC., a Texas corporation, on behalf of the corporation.

[Signature]  
Notary Public  
In and for the State of Florida  
My Commission Expires:



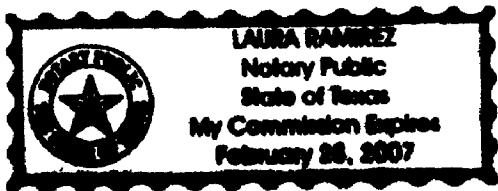
Signature Page to Security Interest Assignment of Trademarks

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4839-352 01/22/2004

TRADEMARK  
REEL: 002923 FRAME: 0845

AGENT:

WELLS FARGO BANK, NATIONAL  
ASSOCIATION, as Agent



By:

\_\_\_\_\_  
Roger Fruendt  
Vice President

A handwritten signature in black ink, appearing to read 'R. Fruendt', written over a horizontal line.

STATE OF Texas §

§

COUNTY OF Harris §

The foregoing instrument was acknowledged before me this 22th day of January, 2004, by Roger Fruendt, a Vice President of WELLS FARGO BANK, NATIONAL ASSOCIATION, as Agent, a national banking association, on behalf of such national association.

A handwritten signature in black ink, appearing to read 'Laura Ramirez', written over a horizontal line.

Notary Public

In and for the State of Texas

My Commission Expires: 02/28/07

**EXHIBIT A**

<u>Trademark Name</u>	<u>App No/ App date</u>	<u>Reg No/ Reg Date</u>
ON THE JOB WEAR (Stylized)		1,026,828 09-Dec-1975

Exhibit A to Security Interest Assignment of Trademarks

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4839-352 02/11/2004

**RECORDED: 03/04/2004**

**TRADEMARK  
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