

10-21-1998



100854313

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

MLO 10-19-98

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

- New
- Resubmission (Non-Recordation)
Document ID #
- Correction of PTO Error
Reel # Frame #
- Corrective Document
Reel # Frame #

Conveyance Type

- Assignment
 - License
 - Security Agreement
 - Nunc Pro Tunc Assignment
 - Merger
 - Change of Name
 - Other
- Effective Date
Month Day Year

Conveying Party

Mark if additional names of conveying parties attached

Name

Execution Date
Month Day Year

Formerly

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other
- Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other
- Citizenship/State of Incorporation/Organization

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

10/20/1998 MBUYEN 00000413 75381445

FOR OFFICE USE ONLY

01 FC:481 40.00 OP
02 FC:482 325.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

TRADEMARK
REEL: 1802 FRAME: 0223

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Correspondent Name and Address

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments.

#

Trademark Application Number(s) or Registration Number(s)

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

<input type="text" value="75/381,445"/>	<input type="text" value="75/083,936"/>	<input type="text" value="75/381,446"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

Registration Number(s)

<input type="text" value="1,323,525"/>	<input type="text" value="1,129,023"/>	<input type="text" value="1,129,027"/>
<input type="text" value="1,397,028"/>	<input type="text" value="1,129,029"/>	<input type="text" value="1,479,848"/>
<input type="text" value="1,509,482"/>	<input type="text" value="1,957,128"/>	<input type="text" value="1,691,813"/>

Number of Properties

Enter the total number of properties involved.

#

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

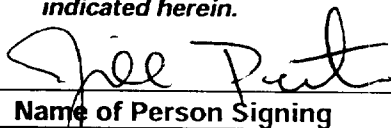
Authorization to charge additional fees:

Yes

No

Statement and Signature

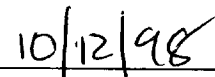
To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.



Name of Person Signing

Jill M. Pietrini, Esq.

Signature



Date Signed

Schedule A to Recordation Form Cover Sheet

Additional U.S. Registrations

1,586,808

1,526,930

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (the "Security Agreement") is entered into as of April 9, 1998 by and between HARMONY FOODS CORPORATION, a Delaware corporation having its principal place of business at 2200 Delaware Avenue, Santa Cruz, California 95060 ("Debtor"), and HSBC BUSINESS LOANS, INC. having its offices at 18500 Von Karman Avenue, Suite 380, Irvine, California 92612 ("Secured Party"), in reliance upon the following:

RECITALS

A. On even date herewith, the parties have entered into that certain Loan and Security Agreement (the "Loan and Security Agreement") pursuant to which the Secured Party agreed to make advances to the Debtor and the Debtor agreed, *inter alia*, to repay such advances and conveyed to Secured Party a first priority security interest in certain collateral.

B. In connection therewith, the Debtor conveyed to the Secured Party a security interest in certain intangibles and intellectual property, including the intellectual property that is also the subject of this Security Agreement and the Secured Party has relied upon the Debtor to do so all in accordance with the terms of this Security Agreement.

C. For the sake of convenience in complying with the regulations of the United States Patent and Trademark Office concerning the creation and perfection of the Secured Party's security interest in the Collateral (as hereinafter defined), the parties have agreed to execute and deliver this Security Agreement.

AGREEMENT

NOW, THEREFORE, in reliance upon the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Grant of Security Interest. The Debtor hereby grants, hypothecates, transfers and conveys to the Secured Party a security interest in the following personal property (hereafter collectively referred to as the "Collateral"):

- (i) the United States trademarks, trademark applications and trademark registrations owned by the Debtor that are listed in Exhibit 1 hereto;
- (ii) all applications and registrations of the trademarks owned by the Debtor in any state of the United States and any foreign countries or localities, all of which are listed in Exhibit 2 hereto;
- (iii) all trade names owned by the Debtor, wherever they might be used;

- (iv) all elements of package or trade dress of goods owned by the Debtor;
- (v) the goodwill of the Debtor's business connected with and symbolized by the above-mentioned trademarks, trade names and package or trade dress;
- (vi) all patents, secrets and other formulae, secrets or other processes, compounds, recipes, know-how and methods relating to the manufacture of foodstuffs under or in connection with the above-mentioned trademarks, trade names and package or trade dress; and
- (vii) all proceeds and products of the foregoing, in any form whatsoever, and all additions and accessions thereto and replacements thereof.

2. **Indebtedness Secured.** This Security Agreement, and the Collateral intended to be conveyed hereunder, secures complete and timely performance of the Debtor's obligations ("Obligations") under the Loan and Security Agreement, as the same may be amended, modified or supplemented from time to time. This Security Agreement shall continue in full force and effect until terminated in accordance with the provisions of Section 10 hereof. The Debtor hereby represents and warrants that listed on Exhibit 3 hereto is a complete and accurate list of the names and addresses of each party to whom any part of the Collateral has been licensed, the date of the applicable license agreement with such party, the term thereof and the royalties paid or payable thereunder. The Debtor agrees that it will not grant any other license for any of the Collateral without the prior written consent of the Secured Party.

3. **Representations and Warranties.** The Debtor hereby represents and warrants that: (i) except for the security interest granted to the Secured Party hereby, the Debtor is the owner of all of the Collateral, free and clear of any and all liens, charges, encumbrances, set-offs, defenses and counterclaims of whatsoever kind or nature, and has made and will make no assignment, pledge, mortgage, hypothecation or transfer of any Collateral or of the proceeds thereof; (ii) the execution and delivery of this Security Agreement will not conflict with or contravene any contractual restriction binding on the Debtor, including any license agreement relating to the Collateral or any part thereof; (iii) except as heretofore disclosed to the Secured Party in writing, there are no legal actions or administrative proceedings pending or threatened before any court or administrative agency involving the Collateral, or any part thereof; (iv) the Debtor will defend its title to the Collateral, and the security interest of the Secured Party therein, against the claims of all persons whatsoever; and (v) all information heretofore, herein or hereafter supplied to the Secured Party with respect to the Collateral is complete, true and correct.

4. **Use and Ownership Prior to Default.** Unless and until an Event of Default shall occur and be continuing, the Debtor shall retain the legal and equitable title to the Collateral, and shall have the right to use and register the Collateral in the ordinary course of the business of the Debtor but shall not be permitted to sell, assign, transfer or otherwise encumber the Collateral or any part thereof; provided, however, that nothing herein contained shall prohibit the Debtor from failing to renew, or otherwise abandoning, any item included within the Collateral if, in Debtor's good faith judgment, the retention of such item is not material to the proper conduct of Debtor's

business, except that the Debtor shall not permit the expiration of registrations of trademarks in the United States Patent and Trademark Office listed in Exhibit 1 hereto or any Application or Registration listed in Exhibit 2 hereto without the prior written consent of Secured Party, which consent shall not be unreasonably withheld.

5. Remedies on Default. Upon the occurrence of an Event of Default under the Loan and Security Agreement or hereunder, the Secured Party shall be entitled to exercise with respect to the Collateral all of the rights and remedies available to a secured party upon default under the Uniform Commercial Code at that time and, in addition thereto, the rights and remedies provided for herein and such other rights and remedies as might be provided for by law or in equity.

a. In the event of a sale of the Collateral or any part thereof, the Secured Party shall give the Debtor reasonable notice of the time and place of any public sale thereof or of the time and place of any private sale or that any other intended disposition thereof is to be made. The requirement of reasonable notice shall be met if notice of the sale or other intended disposition is mailed by the Secured Party, postage prepaid, to the Debtor at its address set forth on the first page of the Loan and Security Agreement, or such other address as the Debtor may by notice have furnished to the Secured Party in writing for such purpose, at least five (5) days prior to the time of such sale or other intended disposition.

b. If the Debtor shall fail to do any act or thing which it has covenanted to do hereunder or any representation or warranty of the Debtor shall be untrue or incomplete, the Secured Party may (but shall not be obligated to) do the same or cause it to be done or remedy any such breach, and there shall be added to the liability of the Debtor hereunder the cost or expense incurred by the Secured Party in doing so, and any and all amounts expended by the Secured Party in taking any such action shall be repayable to it upon its demand to the Debtor thereof, and shall bear interest at the same rate that would apply to such amounts if they were advances under the Loan and Security Agreement, from and including the date such sum is advanced to the date of repayment.

c. The Debtor will, in the event of a sale, duly execute and acknowledge all documents necessary or advisable to record title to the Collateral in the name of the purchaser, including valid, recordable assignments of any and all trademark registrations listed in Exhibit 1 hereof. The Debtor does hereby irrevocably appoint Secured Party as its attorney-in-fact to execute any or all of such documents on the Debtor's behalf to the extent that the Debtor should fail or refuse promptly to execute and deliver any and all documents necessary or advisable to record title to the Collateral in the name of the purchaser.

6. Application of Proceeds. All proceeds of a sale or other disposition of the Collateral shall be applied as follows:

a. First, to the payment of all expenses incurred by the Secured Party in connection with such sale, including but not limited to the expenses of advertising the Collateral to be sold, all court costs and the reasonable fees of counsel to the Secured Party in connection therewith, and to the repayment of all advances made by the Secured Party hereunder for the

account of the Debtor and the payment of all costs and expenses paid or incurred by the Secured Party in connection with this Security Agreement or the exercise of any right or remedy hereunder, to the extent that such advances, costs and expenses shall not theretofore have been reimbursed to Secured Party.

b. Second, to the payment in full of the Obligations, with any surplus to be paid to the Debtor or its successors or assigns, or as a court of competent jurisdiction may direct.

7. Purchasers of Collateral. Upon any sale of Collateral hereunder (whether under power of sale herein granted, pursuant to judicial process or otherwise), the receipt of the Secured Party or the officer making the sale shall be a sufficient discharge to the purchaser or purchasers of the Collateral so sold.

8. Indemnity. The Debtor agrees to indemnify and hold harmless the Secured Party from and against any and all claims, demands, losses, judgments and liabilities (including liabilities for penalties) of whatever kind or nature, and to reimburse the Secured Party for all costs and expenses, including attorneys' fees, growing out of or resulting from this Security Agreement, the exercise by Secured Party of any right or remedy granted to it hereunder, or the conflicting claims of any third party to or in any portion of the Collateral. In no event shall the Secured Party be liable for any matter or thing in connection with this Security Agreement other than to account for monies actually received by it in accordance with the terms hereof.

9. Further Assurances. The Debtor agrees that it will join with the Secured Party in the execution of, and at its own expense shall file and refile under the Uniform Commercial Code, such financing statements, continuation statements and other documents in such offices as the Secured Party may deem necessary or appropriate, and wherever required or permitted by law, in order to perfect and preserve the Secured Party's security interest in the Collateral and hereby authorizes the Secured Party to file financial statements and amendments thereto relative to all or any part of the Collateral without the signature of the Debtor where permitted by law, and agrees to do such further acts and things and execute and deliver to the Secured Party such additional conveyances, assignments, agreements and instruments as the Secured Party may require or deem advisable to carry into effect the purpose of this Security Agreement or to better assure and confirm unto the Secured Party its rights, powers and remedies hereunder.

10. Termination. This Security Agreement, and the security interest of the Secured Party hereunder, shall terminate when all indebtedness secured hereby has been fully paid and all Obligations satisfied and all periods for reinstatement, avoidance as a preferential or fraudulent transfer or disgorgement of payment of the indebtedness or performance of the Obligations shall have passed, at which time the Secured Party shall release to the Debtor the security interest in the Collateral and, if requested by the Debtor, shall execute and file in each office in which any financing statement or assignment relative to the Collateral, or any part thereof, shall have been filed a termination statement, assignment or other appropriate instrument releasing the Secured Party's interest therein, all without recourse to the Secured Party and at the cost and expense of the Debtor.

11. Miscellaneous. The parties hereto agree and acknowledge as follows:

a. It is intended by both parties that the Secured Party file this Security Agreement with the United States Patent and Trademark Office and the California Secretary of State in connection with the creation, perfection and continuation of the Secured Party's security interest in the Collateral.

b. The terms in this Security Agreement are in addition to and not in substitution of the Loan and Security Agreement. In the event of any conflict between this Security Agreement and the Loan and Security Agreement, the terms of the Loan and Security Agreement shall govern.

c. Time is of the essence to the performance by the Debtor of its Obligations.

d. This Security Agreement, and the transactions evidenced hereby, shall be governed by, and construed under, the internal laws of the State of California, without regard to principles of conflicts of law, as the same may from time to time be in effect, including, without limitation, the Uniform Commercial Code as in effect in the State of California.

e. Debtor and the Secured Party agree that any action or proceeding to enforce, or arising out of, this Security Agreement may be commenced in any court of the state in any county, or in the District Court of the United States in any district, in which Secured Party has an office, and Debtor waives personal service of process and agrees that a summons and complaint commencing an action or proceeding in any such court shall be properly served and shall confer personal jurisdiction if served by registered or certified mail to debtor, or as otherwise provided by the laws of the State of California or the United States.

f. The Debtor and the Secured Party hereby knowingly, voluntarily, and intentionally waive any right to trial by jury that the Debtor or the Secured Party may have in any action or proceeding, in law or in equity, in connection with the transaction documents or the transactions related thereto. The Debtor represents and warrants that no representative or agent of the Secured Party has represented, expressly or otherwise, that the Secured Party will not, in the event of litigation, seek to enforce this right to jury trial waiver.

IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be executed by their duly authorized officers as of the date first written above.

SECURED PARTY:

HSBC BUSINESS LOANS, INC.

By: [Signature]
Name: W Field
Title: VP

DEBTOR:

HARMONY FOODS CORPORATION,
a Delaware corporation

By: [Signature]
Name: DONALD W. VASWING
Title: EXEC VP & CFO

EXHIBIT 1

**UNITED STATES TRADEMARKS, TRADEMARK APPLICATIONS
AND TRADEMARK REGISTRATIONS OWNED BY
HARMONY FOODS CORPORATION**

<u>Trademark</u>	<u>Status</u>	<u>Registration</u>	<u>Serial No.</u>	<u>Registration</u>	<u>Filing Date</u>
Bold Beans	Pending		75/381,445		10/29/97
Carabee	Registered	1,323,525	73/335,031	03/05/85	11/02/81
Fruit Tangos	Abandoned		75/083,936		04/04/96
Harmony	Registered	1,129,023	73/184,473	01/08/80	09/05/78
Harmony	Registered	1,129,027	73/184,468	01/08/80	09/05/78
Harmony	Registered	1,397,028	73/548,914	06/10/86	07/19/85
Harmony	Registered	1,129,029	73/184,469	01/08/80	09/05/78
Harmony (& Design)	Registered	1,479,848	73/666,810	03/08/88	06/12/87
Harmony (Stylized)	Registered	1,509,482	73/715,332	10/18/88	03/07/88
Harmony Snacks (& Design)	Registered	1,957,128	74/539,368	02/20/96	06/10/94
Pastamore	Registered	1,691,813	74/176,427	06/09/92	06/17/91
Planet Harmony	Pending		75/381,446		10/29/97
Select-a-mix	Registered	1,586,808	73/813,760	03/13/90	07/21/89
Snack Island	Registered	1,526,930	73/692,382	02/28/89	10/29/87

EXHIBIT 2

**TRADEMARKS, TRADEMARK APPLICATIONS AND
TRADEMARK REGISTRATIONS REGISTERED BY
HARMONY FOODS CORPORATION
IN THE STATE OF CALIFORNIA**

<u>Trademark</u>	<u>Status</u>	<u>Registration</u>	<u>Serial No.</u>	<u>Registration</u>	<u>Filing Date</u>
Cameo	Registered	90,650		10/13/89	
Cameo (& Design)	Registered	44,088		09/02/64	
Cameo Design	Registered	90,648		10/13/89	
Select-a-mix	Registered	90,645		10/13/89	

EXHIBIT 3

LICENSE AGREEMENTS

[None]