

02-22-1999

Form PTO-1594  
(Rev. 6-93)  
OMB No. 0651-0011 (exp. 4/94)

RE



SHEET

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

100970503

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

2/1/99

1. Name of conveying party(ies):  
A&J Cheese Company

Individual(s)                       Association  
 General Partnership               Limited Partnership  
 Corporation-State California  
 Other \_\_\_\_\_

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

3. Nature of conveyance:

Assignment                       Merger  
 Security Agreement               Change of Name  
 Other \_\_\_\_\_

Execution Date: October 30, 1998

2. Name and address of receiving party(ies):  
Name: Comerica Bank - California  
Internal Address: \_\_\_\_\_  
Street Address: 21530 Oxnard Street  
City: Woodland Hills State: CA ZIP: 91367

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State California  
 Other \_\_\_\_\_

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

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

A. Trademark Application No.(s)  
75/383,996; 75/372,876; 75/596,082

B. Trademark Registration No.(s)  
2,187,815; 2,121,801; 2,178,118; 2,161,731;  
2,107,257; 2,129,005

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: David W. Grace  
Internal Address: Loeb & Loeb LLP  
\_\_\_\_\_  
Street Address: 10100 Santa Monica Boulevard  
Suite 2200  
City: Los Angeles State: CA ZIP: 90067-4164

6. Total number of applications and registrations involved: ..... { 9 }

7. Total fee (37 CFR 3.41) ..... \$ 240.00  
 Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number:  
12-1820  
(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.*

Ana Maria Z. Fredgren  
Name of Person Signing

[Signature]  
Signature

11 February 1999  
Date

Total number of pages including cover sheet, attachments, and document: 15

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

TRADEMARK  
REEL: 1857 FRAME: 0544  
\*\*\* TOTAL PAGE: 02 \*\*\*

10/29/98 10:20 AM, JAMES, 7001, page 2/10

**PATENT, TRADEMARK AND COPYRIGHT SECURITY AGREEMENT**

This PATENT, TRADEMARK AND COPYRIGHT SECURITY AGREEMENT (this "Agreement") is made as of October 30, 1998, by A&J Cheese Company, a California corporation ("Grantor"), in favor of Comerica Bank-California, ("Secured Party"), with reference to the following facts:

**RECITALS**

A. Pursuant to a Credit Agreement, of even date herewith, by and between Grantor and Secured Party (as the same may from time to time be supplemented, modified, amended, replaced or supplemented, the "Credit Agreement") and the related documents, Secured Party has agreed to extend credit facilities to Grantor. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Credit Agreement.

B. As a condition to Secured Party's extension of credit to Grantor, Grantor has agreed to grant to Secured Party a security interest in certain collateral as security for the payment and performance of the obligations of Grantor under the Credit Agreement and related documents.

**AGREEMENT**

Grantor hereby grants, assigns and conveys to Secured Party, to secure the timely payment and performance of the obligations of Grantor to Secured Party under the Credit Agreement and the other Loan Documents, including the obligations under the Revolving Note, (collectively, the "Obligations"), a security interest in all of Grantor's right, title and interest in and to the following, whether now a hereafter owned, existing or filed:

(i) all patents and all United States and international patent registrations and applications, including, without limitation, those listed on Schedule A hereto, and including all proceeds thereof, the right to sue for past, present and future infringements thereof, all rights corresponding thereto throughout the world, all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, all improvements thereon and all proceeds of the foregoing, including, but not limited to, all proceeds of licensing (collective, the "Patents");

(ii) all trademarks, trade names and service marks and all United States, state and international trademark, trade name and service mark registrations and applications, including, without limitation, those listed on Schedule C hereto, and including all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, the right to sue for past, present and future infringements thereof, all renewals thereof, all goodwill of Grantor arising therefrom and all proceeds of the foregoing, including, but not limited to, all proceeds of licensing (collectively, the "Trademarks"); and

(iii) all copyrights and all United States, state and international copyright registrations and applications, including, without limitation, those listed on Schedule E hereto, and including all income, royalties, damages and payments now and hereafter due and/or

payable with respect thereto, the right to sue for past, present and future infringements thereof, all renewals thereof, all goodwill of Grantor arising therefrom and all proceeds of the foregoing, including, but not limited to, all proceeds of licensing (the "Copyrights").

This Agreement is a continuing agreement and all rights, powers and remedies hereunder shall apply to any and all Obligations, including those arising under successive transactions which shall either continue the Obligations, increase or decrease them, or from time to time create new Obligations after all or any prior Obligations have been satisfied, and notwithstanding the bankruptcy of Grantor, or any other Loan Party or any other event or proceeding affecting any of the aforementioned Persons.

Grantor represents, warrants and agrees with Secured Party as follows:

1. Grantor is the sole owner in the United States and throughout the world of the entire right, title and interest in and to each of the Patents, Trademarks and Copyrights, free from any mortgage, pledge, lien, security interest, assignment, charge or other encumbrance, whether recorded or unrecorded, including, without limitation, licenses, shop rights (with regard to the Patents) and covenants not to sue, except the security interest herein granted and except as listed on Schedule B with respect to the Patents, Schedule D with respect to the Trademarks and Schedule F with respect to the Copyrights.

2. To the best of Grantor's knowledge, as of the date hereof, each of the Patents, Trademarks and Copyrights listed on Schedules A, C and E, respectively, are valid and enforceable, and they constitute all Patents, Trademarks and Copyrights now owned by Grantor.

3. To the best of Grantor's knowledge, the Patents, Trademarks and Copyrights are subsisting and have not, through litigation or otherwise, been adjudged invalid or unenforceable, in whole or in part.

4. The execution, delivery and performance of this Agreement are within the power of Grantor and have been duly authorized by all necessary corporate action and do not contravene any law, rule, regulation or any judgment, decree or order of any tribunal or of any agreement to which Grantor is a party or by which any of its property is bound.

5. Grantor shall defend the Patents, Trademarks and Copyrights against all claims and demands of all Persons at any time claiming the same or any interests therein adverse to Secured Party. Until the Obligations shall have been satisfied in full, Grantor shall not pledge, mortgage or create, or suffer to exist a security interest in, or, other than in the ordinary course of Grantor's business, enter into any license, sublicense or other agreement relating to the use of, the Patents, Trademarks and Copyrights, without Secured Party's prior written consent.

6. Grantor shall promptly apply for and obtain all renewals or extensions of the Patents, Trademarks and Copyrights, to the full extent permitted by law, except in such instances where the failure to apply for and obtain any renewals or extensions would not have a materially adverse effect on Grantor and its business, operations, properties and condition

(financial or otherwise). If, before all Obligations have been satisfied in full, Grantor shall obtain rights to any new patentable inventions, or become entitled to the benefit of any patent application, patent for any reissue, or of any patent improvement, or if Grantor develops any new trademark, service mark or copyright, Grantor shall give Secured Party prompt written notice of all such patents, trademarks, service marks, copyrights, extensions and renewals and the provisions of this Agreement shall apply thereto. Grantor authorizes Secured Party to modify this Agreement by amending Schedule A and Schedule C and Schedule E to include any new patents, any divisions, continuations, renewals, extensions, continuations-in-part on any patent, any new trademark or service mark, any trademark or service mark renewal and any new copyright, copyright registration and copyright renewal of Grantor applied for and obtained hereafter. Secured Party authorizes Grantor to modify this Agreement by amending Schedule B, Schedule D and Schedule E to reflect the granting or termination of licenses to licensees and franchisees with Secured Party's prior written consent.

7. Grantor shall promptly notify Secured Party in writing of the institution of, and any adverse determination in, any proceeding in the United States Patent and Trademark Office, the United States Copyright Office or any other foreign or domestic governmental agency, court or body, regarding Grantor's claim of ownership in any of the Patents, Trademarks and Copyrights. In the event of any material infringement of any of the Patents, Trademarks or Copyrights by a third party, Grantor shall promptly notify Secured Party of such infringement and sue for and diligently pursue damages for such infringement. If Grantor shall fail to take such action within three (3) months after such notice is given to Secured Party, Secured Party may, but shall not be required to, itself take such action in the name of Grantor, and Grantor hereby appoints Secured Party the true and lawful attorney of Grantor, for it and in its name, place and stead, on behalf of Grantor, to commence judicial proceedings in any court or before any other tribunal to enjoin and recover damages for such infringement, any such damages due to Grantor, net of costs and attorneys' fees, to be applied to the Obligations.

8. Grantor shall, at its sole expense, do, make, execute and deliver all such additional and further acts, things, deeds, assurances, and instruments, in each case in form and substance satisfactory to Secured Party, relating to the creation, validity or perfection of the security interests and collateral assignments provided for in this Agreement under 35 U.S.C. Section 261, 15 U.S.C. Section 1051 et seq., 17 U.S.C. Sections 101, 201 et seq., the Uniform Commercial Code or other law of the United States, the State of California or of any other countries or states as Secured Party may from time to time reasonably request; and shall take all such other action as Secured Party may reasonably require to more completely vest in and assure to Secured Party its rights hereunder or in any of the Patents, Trademarks or Copyrights, and Grantor hereby irrevocably authorizes Secured Party or its designee, at Grantor's expense, to execute such documents, and file such financing statements with respect thereto with or without Grantor's signature, as Secured Party may deem appropriate. In the event that any recording or refileing (or the filing of any statement of continuation or assignment of any financing statement) or any other action, is required at any time to protect and preserve such security interest and collateral assignments, Grantor shall, at its sole cost and expense, cause the same to be done or taken at such time and in such manner as may be necessary and as may be reasonably requested by Secured Party.

Secured Party is hereby irrevocably appointed by Grantor as its lawful attorney and agent, with full power of substitution to execute and deliver on behalf of and in the name of Grantor, such financing statements, collateral assignments, pledges and other documents and agreements and to take such other action as Secured Party may deem necessary for the purpose of perfecting, protecting or effecting the security interests and collateral assignments granted herein and effected hereby, and any mortgages or Liens necessary or desirable to implement or effectuate the same under any applicable law, and Secured Party is hereby authorized to file on behalf of and in the name of Grantor at Grantor's sole expense, such financing statements, collateral assignments, documents and agreements in any appropriate governmental office.

9. If any Event of Default shall have occurred and be continuing and any grace period applicable thereto shall have expired, Secured Party may without notice or demand declare this Agreement to be in default and Secured Party shall thereafter have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party under the Uniform Commercial Code, including, without limitation, the right to dispose of the Patents, Trademarks and Copyrights at public or private sale, subject to the rights of third parties in any of the Patents, Trademarks and Copyrights as described in Schedule B, Schedule D and Schedule E. Secured Party shall give to Grantor at least ten (10) days' prior written notice (which Grantor agrees is "reasonable notification" within the meaning of Section 9-504(3) of the Uniform Commercial Code) of the time and place of any public sale of the Patents, Trademarks and Copyrights or of the time after which any private sale or any other intended disposition is to be made.

If an Event of Default shall have occurred and be continuing, Grantor hereby grants to Secured Party the right and exclusive license to make, have made, use and sell the inventions, marks and works disclosed and claimed in the Patents, Trademarks and Copyrights for Secured Party's benefit and account, and for none other (except as listed on Schedules B, D and E).

Grantor hereby waives any and all rights that it may have to a judicial hearing in advance of the enforcement of any of Secured Party's rights hereunder, including, without limitation, its rights following any Event of Default to take immediate possession of the Patents, Trademarks and Copyrights and exercise its rights with respect thereto.

Secured Party shall not be required to marshal any present or future security for (including, but not limited to, this Agreement and the Patents, Trademarks and Copyrights subject to a security interest hereunder), or guaranties of, the Obligations of any of them, or to resort to such security or guaranties in any particular order; and all of the rights hereunder and in respect of such security and guaranties shall be cumulative and in addition to all other rights, however existing or arising. To the extent that it lawfully may, Grantor hereby agrees that it will not invoke any law relating to the marshalling of collateral which might cause delay in or impede the enforcement of Secured Party's rights under this Agreement or any other instrument evidencing any of the Obligations or by which any of the Obligations is secured or guaranteed, and to the extent that it lawfully may, Grantor hereby irrevocably waives the benefits of all such laws.

10. Except for notices specifically provided for herein, Grantor hereby expressly waives demand, notice, protest, notice of acceptance of this Agreement, notice of loans made, credit extended, collateral received or delivered or other action taken in reliance hereon and all other demands and notices of any description. With respect both to the Obligations and any Collateral therefor, Grantor assents to any extension or postponement of the time of payment or any other indulgence, to any substitution, of any party or person primarily or secondarily liable, to the acceptance of partial payment thereon and the settlement, compromising or adjusting of any thereof, all in such manner and at such time or times as Secured Party may deem advisable. Secured Party shall have no duty as to the protection of the Patents, Trademarks or Copyrights or any income thereon, nor as to the preservation of rights against prior parties, nor as to the preservation of any rights pertaining thereto. Secured Party may exercise its rights with respect to the Patents, Trademarks and Copyrights without resorting or regard to other Collateral or sources of reimbursement for liability. Secured Party shall not be deemed to have waived any of its rights upon or under the Obligations or the Patents, Trademarks and Copyrights unless such waiver be in writing and signed by Secured Party. No delay or omission on the part of Secured Party in exercising any right shall operate as a waiver of any right on any future occasion. All rights and remedies of Secured Party on the Obligations or the Patents, Trademarks or Copyrights, whether evidenced hereby or by any other instrument or papers, shall be cumulative and may be exercised singularly or concurrently.

11. Grantor will pay any and all (i) charges, costs and taxes incurred in implementing or subsequently amending this Agreement, including, without limitation, recording and filing fees, appraisal fees, stamp taxes, and fees and disbursements of Secured Party's counsel incurred by Secured Party, in connection with this Agreement, and (ii) fees and disbursements, incurred by Secured Party in the preparation, execution and delivery of any waiver or consent by Secured Party relating to this Agreement.

12. Grantor and Secured Party may from time to time agree in writing to the release of certain of the Patents, Trademarks and Copyrights from the security interest created hereby.

13. Grantor shall hold Secured Party harmless from any and all costs, damages and expenses which may be incurred by Secured Party or Grantor in connection with any action or failure to act by Secured Party in connection with this Agreement.

14. This Agreement and all rights and obligations hereunder, including matters of construction, validity and performance, shall be governed by the laws of the United States, and, to the extent that the laws of the United States are not applicable, by the laws of the State of California.

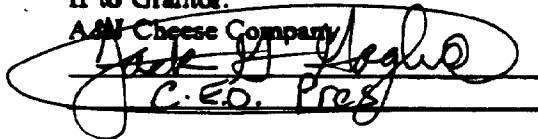
15. Miscellaneous.

(a) This Agreement is executed in connection with the Credit Agreement and unless otherwise expressly set forth herein or therein, shall be construed, administered and applied in accordance with the provisions of the Credit Agreement.

(b) Any notice, request, demand or other communication required or permitted under this Agreement shall be in writing and shall be deemed to be properly given (a) when received, if personally delivered, (b) two (2) business days after deposit in the mail, if mailed by United States first class, certified or registered mail, postage prepaid, (c) one (1) business day after deposit with a public telegraph company for transmittal, charges prepaid, or (d) when the appropriate confirmation is received, if given by telecopy, each to the appropriate address set forth below or to such other address that any such party may designate by written notice to other parties.

If to Grantor:

AAA Cheese Company

  
C. E. O. Pres

1171 East Foothill Blvd.  
Upland, CA 91786

If to Secured Party:

Comerica Bank-California  
21530 Oxnard Street  
Woodland Hills, California 91367

Attention: Mr. Jason D. Brown, AVP  
Telecopier No. (818) 992-5031

(c) Except as otherwise set forth in the Credit Agreement, the provisions of this Agreement may not be modified, amended, restated or supplemented, whether or not the modification, amendment, restatement or supplement is supported by new consideration, except by a written instrument duly executed and delivered by Secured Party.

(d) Except as otherwise set forth in the Credit Agreement or this Agreement, any waiver of the terms and conditions of this Agreement, or any Event of Default and its consequences hereunder or thereunder, and any consent or approval required or permitted by this Agreement to be given, may be made or given with, but only with, the written consent of Secured Party on such terms and conditions as specified in the written instrument granting such waiver, consent or approval. A waiver, to be effective, must be in writing and signed by the party making the waiver.

(e) The headings and captions used in this Agreement are solely for the purpose of reference and are not to be considered as construing or interpreting the provisions hereof.

(f) If any portion of this Agreement shall be adjudged by a court of competent jurisdiction to be unenforceable, the remaining portions shall be valid and enforceable to the extent that the remaining terms thereof provide for consummation of the issuance of a note, the grant of collateral security therefor, the guarantee thereof, and payment of principal and interest thereon substantially on the same terms and subject to the same conditions as set forth herein and therein.

(g) All rights and remedies provided in and contemplated by this Agreement, the Credit Agreement and the other loan documents executed in connection herewith are cumulative and not exclusive of any right or remedy otherwise provide herein, therein, at law or in equity.

(h) Grantor agrees to pay to Secured Party all costs and expenses (including without limitation reasonable attorneys' fees (including the allocated cost of in-house counsel and disbursements)) incurred by Secured Party in the enforcement of this Agreement with regard to the Patents, Trademarks and Copyrights whether or not an action is filed in connection therewith, and in connection with any waiver or amendment of any term or provision hereof. All advances, charges, costs and expenses, including reasonable attorneys' fees, incurred or paid by Secured Party in exercising any right, power or remedy conferred by this Agreement (including without limitation the right to perform any Obligation of Grantor under the Credit Agreement), or in the enforcement thereof, shall be secured hereby and shall become a part of the Obligations and shall be paid to Secured Party by Grantor, immediately upon demand, together with interest thereon at the rate(s) provided for under the Credit Agreement.

(i) Upon the indefeasible payment in full of the Obligations, this Agreement and the security interests and power of attorney granted herein shall terminate and all rights to the Patents, Trademarks and Copyrights shall revert to Grantor. Upon such termination, Secured Party shall execute and deliver to Grantor, at Grantor's sole expense, such assignments and instruments evidencing such termination and transfer, including without limitation properly completed financing statement terminations, as Grantor shall reasonably request.

IN WITNESS WHEREOF, Grantor has caused this Agreement to be executed as of the date first written above.

A&J Cheese Company

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*Jack J. Boyle*  
CEO, Pres.

Comerica Bank-California

By: \_\_\_\_\_  
Its: \_\_\_\_\_

*[Signature]*  
AUX



ACKNOWLEDGMENT

State of California )  
County of SAN BERNARDINO )

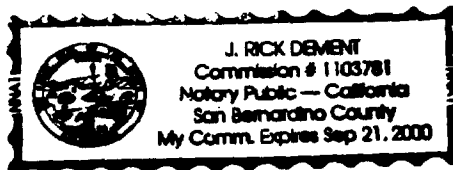
On October 29, 1998 before me, J. Rick Dement, Notary Public,  
personally appeared

JACK GREGORY GAGLIO

personally known to me or  proved to me on the basis of satisfactory evidence to be  
the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to  
me that he/~~she~~/they executed the same in his/~~her~~/their authorized capacity(ies), and that by  
his/~~her~~/their signature(s) on the instrument the person(s), or the entity upon behalf of which  
the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

J. Rick Dement



SCHEDULE A

NONE

SCHEDULE B

NONE

**SCHEDULE C**

**Existing and Pending Trademarks**

**ALLCHEE**

Registration No. 2,187,815

**ANDRINA**

Registration No. 2,121,801

**CALIFORNIA RICHFIELD**

Registration No. 2,178,118

**CASA de QUESO**

Registration No. 2,161,731

**GENCO**

Registration No. 2,107,257

**REALE Brand**

Registration No. 2,129,005

**Pending Trademarks:**

**A&J CHEESE CO.**

Serial Number 75/596,082

**GIA'S PIZZA**

Serial Number 75/383,996

**LAPPIZZA RELLA**

Serial Number 75/372,876

SCHEDULE D

NONE

SCHEDULE E

NONE

SCHEDULE F

NONE