

04-09-1999



101006698

4-6-99

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

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
Effective Date
Month Day Year
- Merger
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name HARKER'S DISTRIBUTION, INC.

03 31 99

Formerly

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association

Other

Citizenship/State of Incorporation/Organization IA

Receiving Party

Mark if additional names of receiving parties attached

Name LASALLE BUSINESS CREDIT, INC., AS AGENT

DBA/AKATA

Composed of

Address (line 1) 135 SOUTH LASALLE STREET

Address (line 2)

Address (line 3) CHICAGO IL 60603

City

State/Country

Zip Code

- Individual
- General Partnership
- Limited Partnership

- Corporation
- Association

Other NATIONAL BANKING ASSOCIATION

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.)

04/08/1999 DMSUYEN 00000154 1385347

FOR OFFICE USE ONLY

01 FC:481 40.00 OP
02 FC:482 950.00 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: 1880 FRAME: 0127

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)

Registration Number(s)

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.

Kristin Brozovic

Name of Person Signing

Kristin Brozovic

Signature

4/1/99

Date Signed

**RECORDATION FORM COVER SHEET
CONTINUATION
TRADEMARKS ONLY**

FORM PTO-1618C
Expires 06/30/99
OMB 0651-0027

U.S. Department of Commerce
Patent and Trademark Office
TRADEMARK

Conveying Party

Enter Additional Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship State of Incorporation/Organization

Receiving Party

Enter Additional 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)
City State/Country Zip Code

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 the Assignment.)

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

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

Mark if additional numbers attached

Trademark Application Number(s)

Registration Number(s)

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1,696,653	1,465,696	1,289,225
1,877,186	1,480,938	1,566,161
1,655,639	1,570,005	1,690,359
1,620,154	1,481,726	2,143,652
1,481,727	2,099,239	1,775,395
1,465,648	1,589,133	2,131,475
1,465,699	1,792,764	1,645,406

ADDITIONAL TRADEMARKS

2,170,310

1,435,857

1,434,112

2,162,805

TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (this "Security Agreement") made as of this 31st day of March, 1999, by Harker's Distribution, Inc., an Iowa corporation ("Borrower"), in favor of LaSalle Business Credit, Inc., with an office at 135 South LaSalle Street, Chicago, Illinois 60603, as agent ("Agent") for Lenders (as defined in the Loan Agreement (as herein defined)).

W I T N E S S E T H

WHEREAS, Borrower, Lombardi Bros. Meat Packers, Inc., Agent, for the benefit of itself and Lenders, and Lenders are parties to a certain Loan and Security Agreement of even date herewith (as the same may be amended or otherwise modified from time to time, the "Loan Agreement") and other related loan documents of even date herewith (collectively, with the Loan Agreement, and as each may be amended or otherwise modified from time to time, the "Financing Agreements"), which Financing Agreements provide (i) for Lenders to, from time to time, extend credit to or for the account of Borrower and (ii) for the grant by Borrower to Agent, for the benefit of Agent and Lenders, of a security interest in certain of Borrower's assets, including, without limitation, its trademarks and trademark applications;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Borrower agrees as follows:

1. Incorporation of Financing Agreements. The Financing Agreements and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. All terms capitalized but not otherwise defined herein shall have the same meanings herein as in the Loan Agreement.

2. Grant and Reaffirmation of Grant of Security Interests. To secure the complete and timely payment and satisfaction of the Liabilities, Borrower hereby grants to Agent, for the benefit of Agent and Lenders, and hereby reaffirms its prior grant pursuant to the Financing Agreements of, a continuing security interest in Borrower's entire right, title and interest in and to all of its now owned or existing and hereafter acquired or arising trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos, other business identifiers, prints and labels on which any of the foregoing have appeared or appear, all registrations and recordings thereof, and all applications (other than "intent to use" applications until a verified statement of use is filed with respect to such applications) in connection therewith, including, without limitation, the trademarks and applications listed on Schedule A attached hereto and made a part hereof and the trademarks, and renewals thereof, and all income, royalties, damages and payments now or hereafter due and/or payable under or with respect to any of the foregoing, including, without limitation, damages and payments for past, present and future infringements of any of the foregoing and the right to sue for past, present and future infringements of any of the foregoing (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Trademarks"); all rights corresponding to

any of the foregoing throughout the world and the goodwill of Borrower's business connected with the use of and symbolized by the Trademarks.

3. Warranties and Representations. Borrower warrants and represents to Agent, for the benefit of Agent and Lenders, that:

(i) no Trademark has been adjudged invalid or unenforceable by a court of competent jurisdiction nor has any such Trademark been canceled, in whole or in part, and each such Trademark is presently subsisting;

(ii) Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each Trademark, free and clear of any liens, charges and encumbrances, including, without limitation, shop rights and covenants by Borrower not to sue third persons;

(iii) Borrower has no notice of any suits or actions commenced or threatened with respect to any Trademark; and

(iv) Borrower has the unqualified right to execute and deliver this Security Agreement and perform its terms.

4. Restrictions on Future Agreements. Borrower agrees that until all Liabilities shall have been satisfied in full and the Financing Agreements shall have been terminated, Borrower shall not, without the prior written consent of Agent, sell or assign its interest in any Trademark or enter into any other agreement with respect to any Trademark which would affect the validity or enforcement of the rights transferred to Agent, for the benefit of Agent and Lenders, under this Security Agreement.

5. New Trademarks. Borrower represents and warrants that, based on a diligent investigation by Borrower, the Trademarks listed on Schedule A constitute all of the federally registered Trademarks, and federal applications for registration of Trademarks (other than "intent to use" applications until a verified statement of use is filed with respect to such applications) now owned by Borrower. If, before the Liabilities shall have been satisfied in full or before the Financing Agreements have been terminated, Borrower shall (i) become aware of any existing Trademarks of which Borrower has not previously informed Agent, or (ii) become entitled to the benefit of any Trademarks, which benefit is not in existence on the date hereof, the provisions of this Security Agreement above shall automatically apply thereto and Borrower shall give to Agent prompt written notice thereof. Borrower hereby authorizes Agent to modify this Security Agreement by amending Schedule A to include any such Trademarks.

6. Term. The term of the Security Agreements granted herein shall extend until the payment in full of all Liabilities and the termination of the Financing Agreements. Borrower agrees that upon the occurrence of an Event of Default, the use by Agent of all Trademarks shall be without any liability for royalties or other related charges from Agent or Lenders to Borrower.

7. Product Quality. Borrower agrees to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with commercially

reasonable business practices. Upon the occurrence and during the continuance of an Event of Default, Borrower agrees that Agent, for the benefit of Agent and Lenders, or a conservator appointed by Agent, shall have the right to establish such additional product quality controls as Agent, or said conservator, in its reasonable judgment, may deem necessary to assure maintenance of the quality of products sold by Borrower under the Trademarks.

8. Release of Security Agreement. This Security Agreement is made for collateral purposes only. Upon payment in full of all Liabilities and termination of the Financing Agreements, Agent shall take such actions as may be necessary or proper to terminate the security interests created hereby and pursuant to the Financing Agreements

9. Expenses. All reasonable expenses incurred in connection with the performance of any of the agreements set forth herein shall be borne by Borrower. All fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Agent in connection with the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, reasonable counsel fees, maintenance fees, encumbrances or otherwise in protecting, maintaining or preserving the Trademarks or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks shall be borne by and paid by Borrower and until paid shall constitute Liabilities.

10. Duties of Borrower. Borrower shall have the duty (i) to file and prosecute diligently any trademark applications pending as of the date hereof or hereafter, as commercially reasonable, until all Liabilities shall have been paid in full and the Financing Agreements have been terminated, (ii) to preserve and maintain all rights in the Trademarks, as commercially reasonable and (iii) to ensure that the Trademarks are and remain enforceable, as commercially reasonable. Any expenses incurred in connection with Borrower's obligations under this Section 10 shall be borne by Borrower.

11. Agent's Right to Sue. After an Event of Default, Agent, for the benefit of Agent and Lenders, shall have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Trademarks and, if Agent shall commence any such suit, Borrower shall, at the request of Agent, do any and all lawful acts and execute any and all proper documents required by Agent in aid of such enforcement and Borrower shall promptly, upon demand, reimburse and indemnify Agent for all costs and expenses incurred by Agent in the exercise of its rights under this Section 11.

12. Waivers. No course of dealing between Borrower and Agent and Lenders, nor any failure to exercise, nor any delay in exercising, on the part of Agent and Lenders, any right, power or privilege hereunder or under the Financing Agreements 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. Severability. The provisions of this Security 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 other clause or provision of this Security Agreement in any jurisdiction.

14. Modification. This Security Agreement cannot be altered, amended or modified in any way, except as specifically provided in Section 5 hereof or by a writing signed by the parties hereto.

15. Cumulative Remedies; Power of Attorney; Effect on Financing Agreements. All of Agent's or any of Lenders' rights and remedies with respect to the Trademarks, whether established hereby or by the Financing Agreements, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Borrower hereby authorizes Agent, for the benefit of Agent and Lenders, upon the occurrence of an Event of Default, to make, constitute and appoint any officer or agent of Agent as Agent may select, in its sole discretion, as Borrower's true and lawful attorney-in-fact, with power to (i) endorse Borrower's name on all applications, documents, papers and instruments necessary or desirable for Agent in the use of the Trademarks or (ii) take any other actions with respect to the Trademarks as Agent deems to be in the best interest of Agent and Lenders, or (iii) grant or issue any exclusive or non-exclusive license under the Trademarks to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone. Borrower hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable until all Liabilities shall have been paid in full and the Financing Agreements have been terminated. Borrower acknowledges and agrees that this Security Agreement is not intended to limit or restrict in any way the rights and remedies of Agent or any Lender under the Financing Agreements but rather is intended to facilitate the exercise of such rights and remedies. Agent, for the benefit of Agent and Lenders, shall have, in addition to all other rights and remedies given it by the terms of this Security Agreement and the Financing Agreements, all rights and remedies allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in Illinois.

16. Binding Effect; Benefits. This Security Agreement shall be binding upon Borrower and its respective successors and assigns, and shall inure to the benefit of Agent, for the benefit of Agent and Lenders, its successors, nominees and assigns.

17. Governing Law. This Security Agreement shall be governed by and construed in accordance with the laws of the State of Illinois and applicable federal law.

18. Headings. Paragraph headings used herein are for convenience only and shall not modify the provisions which they precede.

19. Further Assurances. Borrower agrees to execute and deliver such further agreements, instruments and documents, and to perform such further acts, as Agent shall reasonably request from time to time in order to carry out the purpose of this Security Agreement and agreements set forth herein.

20. Survival of Representations. All representations and warranties of Borrower contained in this Security Agreement shall survive the execution and delivery of this

Security Agreement and shall be remade on the date of each borrowing under the Financing Agreements.

IN WITNESS WHEREOF, Borrower has duly executed this Security Agreement as of the date first written above.

HARKER'S DISTRIBUTION, INC.

By *Ronald L. Geige*
Its: President

Agreed and Accepted
As of the Date First Written Above

LASALLE BUSINESS CREDIT, INC., as Agent

By: *[Signature]*
Its: SVP

SCHEDULE A

TRADEMARK REGISTRATIONS

<u>Trademark Description</u>	<u>U.S. Serial/Registration No.</u>	<u>Date Registered</u>
AMERICA'S FOODSERVICE LEADER	1,385,347	3/4/86
AMERICA'S FOODSERVICE LEADER	1,384,217	2/25/86
BRT SMOKEY	1,921,065	9/19/95
CHEDDAR CRISPS	1,217,695	11/23/82
CHICKEN FANTASTICS	1,588,039	3/20/90
CHICKEN FRIES	2,194,438	10/6/98
DipSkins (Stylized)	2,162,805	6/2/98
FAST-WICH	2,223,293	2/9/99
GREAT TAKES	1,593,280	4/24/90
HARKER'S	1,051,980	11/2/76
HARKER'S COMPLETES YOUR MENU	1,696,653	6/23/92
HARKER'S COMPLETES YOUR MENU	1,877,186	1/31/95
HARKER'S COUNTRY FAVORITE	1,655,639	9/3/91
HARKER'S COUNTRY PREFERRED	1,620,159	10/30/90
HARKER'S FLAV-R-CUT	1,481,727	3/22/88
HARKER'S HOMESTYLE BURGERS	1,465,698	11/17/87
HARKER'S HOMESTYLE BURGERS & DESIGN	1,465,699	11/17/87

HARKER'S HOMESTYLE ENTREE	1,465,696	11/17/87
HARKER'S PREMIUM-CUT	1,480,938	3/15/88
HARKER'S READY LEAN	1,570,005	12/5/89
HARKER'S TEND-R-CUT	1,481,726	3/22/88
JALAPENO STUFFER	2,099,239	9/23/97
MOZZARELLA CRISPS	1,589,133	3/27/90
MR. FRANKENLEAN	1,792,764	9/14/93
MR. RIB	1,289,225	8/7/84
MR. RIB & Design	1,566,161	11/14/89
OH SO CRISPY	1,690,359	6/2/92
ONION FRIES	2,143,652	3/10/98
SENROR BURRITO	1,775,395	6/8/93
SHRIMP FRIES	2,131,475	1/20/98
SIGNATURE SERVICE STEAKS	1,645,406	5/21/91
SPRING CRISPS	2,170,310	6/30/98
THE ULTIMATE GOURMET BURGER	1,435,857	4/7/87
THE WIDE BODY BURGER	1,434,112	3/24/87

TRADEMARK APPLICATIONS

<u>Trademark Application Description</u>	<u>U.S. Application No.</u>	<u>Date Applied</u>
CLUB STYLE	75/469,361	4/17/98
FOOD DUDES	74/323,396	10/19/92
LAY PERFECT	75/608,890	12/22/98

MAIN STREET (Logo)
YOUR PROFIT EXPERTS

75/642,316
75/433,910

2/17/99
2/13/98