

04-21-2000



101329652

MRD
3/22/00

MRD 3-22-00

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

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.)

04/20/2000 JSHABAZZ 00000087 611860

FOR OFFICE USE ONLY

01 FC:481
02 FC:482

40.00 OP
125.00 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: 002056 FRAME: 0131

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"/>	<input type="text"/>	<input type="text"/>
<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="611,860"/>	<input type="text" value="2,084,905"/>	<input type="text"/>
<input type="text" value="1,631,048"/>	<input type="text" value="2,164,535"/>	<input type="text"/>
<input type="text" value="1,915,856"/>	<input type="text" value="2,137,490"/>	<input type="text"/>

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.

Joann C. Moscarriello, Esquire

Joann C. Moscarriello

3/16/00

Name of Person Signing

Signature

Date Signed

Recordation Form Cover Sheet

ADDITIONAL CONVEYING PARTIES

Conveying Party #2

Name: Pappas Products, Corp.

Execution Date: 01072000

Formerly:

Individual General Partnership Limited Partnership Corporation Association

Other:

Citizenship/ State of Incorporation/ Organization: New Jersey

Conveying Party #3

Name: Pappas Foods, LLC

Execution Date: 01072000

Formerly:

Individual General Partnership Limited Partnership Corporation Association

Other:

Citizenship/ State of Incorporation/ Organization: Arkansas

TRADEMARK SECURITY ASSIGNMENT

This TRADEMARK SECURITY ASSIGNMENT ("Agreement") is made and entered into as of the _____ day of December, 1999 between CLEMENT PAPPAS AND COMPANY, INC. ("Clement"), PAPPAS PRODUCTS, CORP. ("Products"), and PAPPAS FOODS, L.L.C. ("Foods", and together with Clement and Products, the "Assignor") and FIRST UNION NATIONAL BANK (the "Assignee").

A. Clement, Products and the Assignee are parties to that certain Loan and Security Agreement, as amended by that certain First Addendum to Loan and Security Agreement, both dated as of September 26, 1997 (such agreement, as amended or otherwise modified from time to time, the "Loan Agreement").

B. Each Assignor, Peter C. Pappas, Dean C. Pappas and the Assignee have, on September 1, 1999, entered into that certain Second Amendment to Loan and Security Agreement (the "Second Amendment").

C. Pursuant to the terms of the Second Amendment, each Assignor has agreed to assign to the Assignee a security interest in certain trademarks, service marks, tradenames, and the goodwill associated therewith, as herein provided.

D. Any term used but not defined herein shall have the meaning given to such term in the Second Amendment.

NOW THEREFORE, in consideration of the premises and of the mutual covenants of the parties hereto, and intending to be legally bound hereby, it is hereby agreed as follows:

1. Assignment of Marks. To secure the complete and timely payment and satisfaction of all of the Obligations, each Assignor hereby grants, assigns and conveys to the Assignee a security interest in and to all of such Assignor's trademark applications, trademarks (whether registered, unregistered or for which any application to register has been filed), service mark applications, service marks (whether registered, unregistered or for which any application to register has been filed) and tradenames, all of which are listed in Schedules A, B and C hereto (as the same may be amended pursuant hereto from time to time), including, without limitation, all renewals thereof and all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights owned by Assignor corresponding thereto throughout the world (all of the foregoing are collectively called the "Marks"), together with the goodwill of the business symbolized by each of the Marks and the registrations (if any) thereof.

2. Warranties and Representations. Each Assignor covenants and warrants that: (a) it is the sole and exclusive owner of the entire right, title and interest in each of the Marks, free and clear of any liens, pledges, assignments or other encumbrances, subject only to existing licenses; (b) it has the unqualified right to enter into this Agreement and perform its terms;

(c) the Marks are subsisting and have not been adjudged invalid or unenforceable; (d) to the best of each Assignor's knowledge, each of the Marks is valid and enforceable; (e) no claim has been made that the use of any of the Marks does or may violate the rights of any third person; (f) each Assignor has used, and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the Marks; and (g) each Assignor has used, and will continue to use for the duration of this Agreement, consistent standards of quality in its manufacture of products and delivery of services sold or provided under the Marks. Each Assignor shall, in any event, indemnify and hold the Assignee harmless from all losses, damages, costs and expenses, including legal costs and counsel fees, incurred by Assignee as the direct or indirect result of any action, claim or demand, whether or not groundless, alleging that the Marks infringe any trademarks held by third parties.

3. Right To Inspect. Each Assignor hereby grants to Assignee and its employees and agents the right to visit such Assignor's plants and facilities where products sold or services provided under any of the Marks are manufactured, inspected stored, or provided, and to inspect and review the products and quality control records relating thereto at reasonable times. Each Assignor shall do any and all acts required by Assignee to ensure such Assignor's compliance with paragraph 2(g).

4. Right to Benefits. If, before the Obligations shall have been satisfied in full, any Assignor shall become entitled to the benefit of any additional trademark or service mark registration, or any renewal or affidavit of any Mark, the provisions of paragraph 1 shall automatically apply thereto.

5. Future Marks. Each Assignor authorizes the Assignee to modify this Agreement by amending Schedule A to include any future trademarks, service marks or tradenames which are Marks under paragraph 1 or paragraph 4 hereof.

6. Events of Default. The term "Event of Default", as used herein, shall mean: (a) any Event of Default under this Agreement, the Loan Agreement or the Second Amendment; and (b) any violation by any Assignor of any representation, warranty or covenant contained in this Agreement and any modification or amendment hereof which is not waived or cured and remedied within fifteen (15) calendar days after notice thereof to such Assignor.

7. Assignor's Right to Use Marks. Unless and until an Event of Default shall occur and be continuing, each Assignor shall retain the legal and equitable title to the Marks and shall have the right to use the Marks in the ordinary course of its business but shall not be permitted to sell, assign, transfer or otherwise encumber the Marks or any part thereof; provided, however, that nothing herein contained shall prohibit any Assignor from failing to renew or otherwise abandoning any item included within the Marks if, in such Assignor's good judgment, the retention of such item is not material to the proper conduct of its business, provided, however, that such Assignor shall give the Assignee ten (10) days' prior written notice of any abandonment or failure to renew of any item included within the Marks.

8. Assignee's Rights As Secured Party. If any Event of Default shall have occurred and be continuing, the Assignee shall have, in addition to all other rights and remedies given it by this Agreement and the Loan 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 Marks may be located and, without limiting the generality of the foregoing, the Assignee may immediately, without demand of performance and without advertisement, sell at public or private sale or otherwise realize upon, in New Jersey or elsewhere, the whole or from time to time any part of the Marks, the goodwill and equipment associated therewith, or any interest which any Assignor has therein, and after deducting from the proceeds of said sale or other disposition of the Marks all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds for the payment of the Obligations. Notice of any sale or other disposition of the Marks shall be given to each Assignor at least five (5) calendar days before the time of any intended public or private sale or other disposition of the Marks is to be made, which each Assignor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, any holder of any Note referred to in the Loan Agreement (including renewals and substitutions therefor) or the Assignee may, to the extent permissible under applicable law, purchase the whole or any part of the Marks sold, free from any right of redemption on the part of each Assignor, which right is hereby waived and released.

9. Power of Attorney. If any Event of Default shall have occurred and be continuing, each Assignor hereby authorizes and empowers the Assignee to make, constitute and appoint any officer or agent of the Assignee as the Assignee may select in its exclusive discretion, as such Assignor's true and lawful attorney-in-fact, with the power to endorse such Assignor's names on all applications, documents, papers and instruments necessary for the Assignee to use the Marks, or to grant or issue any exclusive or non-exclusive license under the Marks to any third person, or necessary for the Assignee to assign, pledge, convey or otherwise transfer title in or dispose of the Marks, the goodwill and equipment associated therewith, to any third person. Each Assignor 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.

10. Termination. At such time as each Assignor shall completely satisfy all of the Obligations and all other liabilities of each Assignor to the Assignee, or there shall exist no continuing liability of any Assignor with respect to the Obligations under the terms of the Loan Agreement or any agreement executed in connection therewith, this Agreement shall terminate and the Assignee shall execute and deliver to each Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest in such Assignor the full unencumbered title to the Marks, and the goodwill associated therewith, subject to any disposition thereof which may have been made by the Assignee pursuant hereto.

11. Fees and Expenses of Assignee. If an Event of Default shall have occurred and be continuing, any and all fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by the Assignee in connection with the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Marks, or in defending or prosecuting any actions or

proceedings arising out of or related to the Marks, shall be borne and paid by each Assignor on demand by the Assignee, 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 Loan Agreement.

12. Protection of Marks.

(a) Each Assignor shall take all actions reasonably necessary to protect and defend the Marks and shall institute such proceedings to enforce the Marks as it, in its reasonable business judgment, deems appropriate. The Assignee shall, upon the reasonable request of any Assignor, do any and all lawful acts and execute any and all proper documents in aid of such protection, defense and enforcement, and each Assignor shall promptly, upon demand, reimburse and indemnify the Assignee for all costs and expenses incurred by the Assignee in connection therewith.

(b) If an Event of Default shall have occurred and be continuing, the Assignee shall have the right but shall in no way be obligated to bring suit in its own name to enforce the Marks, in which event each Assignor shall at the request of the Assignee do any and all lawful acts and execute any and all proper documents required by the Assignee in aid of such enforcement, and each Assignor shall promptly, upon demand, reimburse and indemnify the Assignee for all costs and expenses incurred by the Assignee in the exercise of its rights under this paragraph 12.

13. No Waiver. No course of dealing between any Assignor and the Assignee nor any failure to exercise, nor any delay in exercising, on the part of the Assignee, any right, power or privilege hereunder or under the Loan Agreement 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 or the exercise of any other right, power or privilege.

14. Severability. 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 other clause or provision of this Agreement in any jurisdiction.

15. Manufacture and Sale. The parties understand and agree that the collateral security assignment of the Marks as provided for in this Agreement, together with other collateral provided to the Assignee pursuant to the Loan Agreement and the other loan documents referred to therein, will permit the Assignee, upon the happening of an Event of Default as provided herein, to make use of all rights to the Marks, the goodwill associated therewith and certain equipment and machinery as set forth in the Loan Documents, all of which will permit the Assignee to manufacture and sell the products for which the use of the Marks is associated and maintain substantially the same product specifications and quality as maintained by each Assignor.

16. Amendment. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 4.

17. Successors and Assigns. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties.

18. Governing Law. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the State of New Jersey.

19. Judicial Proceedings. Each party to this Agreement agrees that any suit, action, or proceeding, whether claim or counterclaim, brought or instituted by any party hereto or any successor or assign of any party, on or with respect to this Agreement or the dealings of the parties with respect hereto, shall be tried only by a court and not by a jury. EACH PARTY HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY SUCH SUIT, ACTION OR PROCEEDING. Further, each Assignor waives any right it may have to claim or recover, in any such suit, action or proceeding, any special, exemplary, punitive or consequential damages or any damages other than, or in addition to, actual damages. EACH ASSIGNOR ACKNOWLEDGES AND AGREES THAT THIS PARAGRAPH IS A SPECIFIC AND MATERIAL ASPECT OF THIS AGREEMENT AND THAT THE ASSIGNEE WOULD NOT EXTEND CREDIT TO SUCH ASSIGNOR IF THE WAIVERS SET FORTH IN THIS PARAGRAPH WERE NOT A PART OF THIS AGREEMENT.

IN WITNESS WHEREOF, and intending to be legally bound hereby, the parties hereto have executed this Agreement the day and year first above written.

ATTEST:

CLEMENT PAPPAS AND COMPANY, INC.

[Signature]

By: Dean C. Pappas
Name: DEAN C. PAPPAS
Title: CEO

ATTEST:

PAPPAS PRODUCTS, CORP.

[Signature]

By: Dean C. Pappas
Name: DEAN C. PAPPAS
Title: PRESIDENT

ATTEST:

PAPPAS FOODS, L.L.C.

Dean C. Pappas

By: [Signature]
Name: Peter C. Pappas
Title: President

WITNESS:

FIRST UNION NATIONAL BANK

Jeanne E. Holcomb
Jeanne E. Holcomb

By: [Signature]
Name: Amy B. Delhni
Title: Assistant Vice President

SCHEDULE "A"
CLEMMENT PAPPAS AND COMPANY, INC.

<u>Trademark/ Service Mark Trade Name</u> ¹	Registration No. or Serial No. if an Application is <u>Pending</u>	<u>Country</u>	Registration Date or Filing Date if an Application is <u>Pending</u>	<u>Renewal Date</u>
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None

¹ Identify the Mark exactly as it appears on the U.S. Patent and Trademark Certificate of Registration. If the Mark is a Design/Logo, attach a copy of said mark hereto.

SCHEDULE "B"
PAPPAS PRODUCTS CORP.

Trademark /Service Mark Trade Name¹	Registration No. or Serial No. if an Application is Pending	Country	Registration Date or Filing Date if an Application is Pending	Renewal Date
RUBY-KIST* (Stylized)	611,860	U.S.A.	09/06/55	09/06/05
RUBY-KIST	1,631,048	U.S.A.	01/08/91	01/08/01
BOO JUICE	1,915,856	U.S.A.	08/29/95	08/29/05
APPLELICIOUS	2,084,905	U.S.A.	07/29/97	07/29/07
CLEM'S JUICE BAR	2,164,535	U.S.A.	06/09/98	06/09/08
APPLE STAMPEDE	2,137,490	U.S.A.	02/17/98	02/17/08
RUBY KIST	8253	New Jersey	09/16/88	09/16/03
RUBY KIST	412,276	Canada	05/14/93	05/14/08

*A copy of the registration certificate is attached.

¹ Identify the Mark exactly as it appears on the U.S. Patent and Trademark Certificate of Registration. If the Mark is a Design/Logo, attach a copy of said mark hereto.

SCHEDULE "C"
PAPPAS FOODS, L.L.C.

Trademark/ Service Mark <u>Trade Name</u> ³	Registration No. or Serial No. if an Application is <u>Pending</u>	<u>Country</u>	Registration Date or Filing Date if an Application is <u>Pending</u>	<u>Renewal Date</u>
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None

³ Identify the Mark exactly as it appears on the U.S. Patent and Trademark Certificate of Registration. If the Mark is a Design/Logo, attach a copy of said mark hereto.

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF *New Jersey* :
: SS
COUNTY OF *Lumberton* :

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 7th day of ~~December, 1999~~^{January, 2000}, personally appeared Dean C. Pappas to me known personally, and who, being by me duly sworn, deposes and says that (s)he is the CEO of CLEMENT PAPPAS AND COMPANY, INC., a New Jersey corporation, and that (s)he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein by signing the name of the corporation by himself/herself as such officer.

Debra Hudson
Notary Public

My Commission Expires: Feb. 14, 2000

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF Connecticut :
 : SS Shelton
COUNTY OF Fairfield :

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 29
day of ~~December, 1999~~ ^{February, 2000} personally appeared Amy DeHni to me known
personally, and who, being by me duly sworn, deposes and says that (s)he is the Assistant Vice
President of FIRST UNION NATIONAL BANK, a national banking association, and that (s)he as
such officer, being authorized to do so, executed the foregoing instrument for the purposes
therein by signing the name of the national banking association by himself/herself as such
officer.

Jeanne E. Holcomb
Notary Public Jeanne E. Holcomb

My Commission Expires: 11/30/04

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF New Jersey :
: SS
COUNTY OF Cumberland :

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 7th day of ~~December~~^{January}, ~~1999~~²⁰⁰⁰, personally appeared Dean C. Pappas to me known personally, and who, being by me duly sworn, deposes and says that (s)he is the President of PAPPAS PRODUCTS, CORP., a Delaware corporation, and that (s)he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein by signing the name of the corporation by himself/herself as such officer.

Robert Anderson
Notary Public

My Commission Expires: Feb. 14, 2000

CERTIFICATE OF ACKNOWLEDGMENT

STATE OF *New Jersey* :
: SS
COUNTY OF *Lumberton* :

Before me, the undersigned, a Notary Public in and for the county aforesaid, on this 7th day of December, 1999, personally appeared Peter C. Pappas to me known personally, and who, being by me duly sworn, deposes and says that (s)he is the President of PAPPAS FOODS, L.L.C., an Arkansas corporation, and that (s)he as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein by signing the name of the corporation by himself/herself as such officer.

Doree Meadows
Notary Public

My Commission Expires: Feb. 14, 2000