

4-17-00

05-08-2000

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



101349703

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

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

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name Ace Baking Company Limited Partnership

03172000

Formerly _____

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

Receiving Party

Mark if additional names of receiving parties attached

Name Keebler Company

DBA/AKA/TA _____

Composed of _____

Address (line 1) 677 Larch Avenue

Address (line 2) _____

Address (line 3) Elmhurst
City

Illinois
State/Country

60126-1581
Zip Code

- Individual General Partnership Limited Partnership
- Corporation Association
- Other _____

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.)

Citizenship/State of Incorporation/Organization Delaware

05/08/2000 NGUYEN 00000287 2062931

FOR OFFICE USE ONLY

01 FC:481 40.00 OP
02 FC:482 175.00 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: 002067 FRAME: 0943

TRADEMARK

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

(630) 782-2236

Name

Jo E. Osborn, Esq.

Address (line 1)

Keebler Company

Address (line 2)

677 Larch Avenue

Address (line 3)

Elmhurst, Illinois 60126-1581

Address (line 4)

Pages

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

#

6

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)

See attached Appendix A

See attached Appendix A

Number of Properties

Enter the total number of properties involved.

#

8

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41):

\$

215.00

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

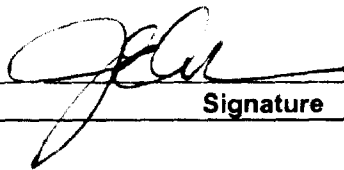
No

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.

Jo E. Osborn

Name of Person Signing



Signature

April 6, 2000

Date Signed

APPENDIX A

U.S. Trademark Registrations:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
DIP-TOP	2,062,931	5/20/1997
DUBLE HEDER	573,143	4/14/1953
EAT-IT-ALL	560,074	6/17/1952
HONEY-ROLL	682,989	8/4/1959
TAKE-OUT	688,061	11/10/1959
THE AMERICAN DREAM CONE	1,483,714	4/5/1988

U.S. Trademark Applications:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
BOY AND CONE Design	75/682,520	4/14/1999
GIRL AND CONE Design	75/682,516	4/14/1999

ASSIGNMENT OF TRADEMARKS

THIS ASSIGNMENT OF TRADEMARKS (hereinafter referred to as the "Assignment") is made as of the 17th day of March, 2000 (hereinafter referred to as the "Effective Date"), by and between ACE BAKING COMPANY LIMITED PARTNERSHIP, a Wisconsin Limited Partnership having its principal office at 1122 Lincoln Street, Green Bay, WI 54306-2476 (hereinafter referred to as "ASSIGNOR") and KEEBLER COMPANY, a Delaware corporation having its principal place of business at 677 Larch Avenue, Elmhurst, IL 60126 (hereinafter referred to as "ASSIGNEE").

RECITALS

A. ASSIGNOR is the assignee of record of certain trademark registrations, trademark applications, and/or common law trademarks (herein referred to as "the Trademarks").

B. On or about December 28, 1999, ASSIGNOR has filed a voluntary petition under Chapter 11 of Title 11, United States Code, which is pending in the United States Bankruptcy Court for the Eastern District of Wisconsin (hereinafter referred to as "the Court"), as Case No. 99-32446-JES-11, and ASSIGNOR is operating its business and in possession of its assets pursuant to Sections 1107 and 1108 of the Bankruptcy Code.

C. The assets of ASSIGNOR being sold pursuant to the bankruptcy proceeding include a package of assets (hereinafter referred to as "the LOT 2 Assets") which are being acquired by ASSIGNEE.

D. On February 29, 2000, the Court entered an order (hereinafter referred to as the "Sale Order") pursuant to Section 363 of the Bankruptcy Code authorizing ASSIGNOR to assign to ASSIGNEE the Trademarks.

E. ASSIGNEE desires by execution of this Assignment to obtain an assignment of all of ASSIGNOR's rights, title, and interest in and to the Trademarks from ASSIGNOR in accordance with ASSIGNEE's purchase of the LOT 2 Assets from ASSIGNOR, and ASSIGNOR desires by execution of this Assignment to grant an assignment of all of its rights, title, and interest in and to the Trademark to ASSIGNEE in accordance with ASSIGNOR's sale of the LOT 2 Assets to ASSIGNEE.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in consideration of the covenants and agreements set forth herein, ASSIGNOR and ASSIGNEE mutually agree as follows:

1. Definition. As used herein, the following term shall have the meanings set forth below:

1.1 Assigned Trademarks. The term "Assigned Trademarks" shall mean those trademark registrations, trademark applications, and/or common law trademarks listed in Appendix A attached hereto and made a part hereof, as well as: (a) all common law rights therein; (b) all goodwill associated therewith; (c) all renewals thereof; (d) all rights of action, powers, and benefits accrued thereto, including the right to sue for and collect damages and payments for past or future infringements thereof.

2. Assignment of the Assigned Trademarks. Subject to the terms, conditions, and limitations set forth herein, ASSIGNOR hereby sells, assigns, and transfers to ASSIGNEE, its successors, and assigns ASSIGNOR's entire rights, title, and interest in and to the Assigned Trademarks. The assignment of the Assigned Trademarks granted by ASSIGNOR to ASSIGNEE in this Agreement is granted free and clear of all security interests, liens, encumbrances, claims, or interests of any kind or nature to the fullest extent provided for in the Sale Order.

3. Representations.

3.1 Incorporation. Each party represents and warrants that it is a corporation or a limited liability company, as applicable, which is duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation or registration and has the full corporate power and authority to enter into this Assignment and perform its agreements and covenants to be performed hereunder.

3.2 Authority. Each party represents and warrants that the execution and delivery of this Assignment by it and the performance by it of its covenants and agreements hereunder have been duly authorized by all necessary corporate action and, when executed and delivered by it, this Assignment shall constitute the valid and legally binding agreement of it, enforceable against it in accordance with its terms.

3.3 Conflicts. Each party represents and warrants that neither the execution and delivery of this Assignment nor the consummation or performance by it of the transactions contemplated herein will violate any provision of its certificate of incorporation or by-laws or any law, rule, regulation, writ, judgment, injunction, decree, determination, award, or other order of any court, government or governmental agency or instrumentality, domestic or foreign, or conflict with or result in any breach of any of the terms of or the creation or imposition of any mortgage, deed of trust, pledge, lien, security interest or other charge or encumbrance of any nature pursuant to the terms of, any contract or agreement to which it is a party or by which it, or any of its assets and properties, is bound.

3.4 Authority of the Court. ASSIGNOR hereby represents that at the time of execution of this Agreement, it has obtained authority of the Court to grant the rights granted to ASSIGNEE in this Assignment.

4. General Provisions.

4.1 Merger and Integration. This Assignment represents the entire understanding of the parties with respect to its subject matter and supersedes all prior agreements, written or oral, concerning the subject matter hereof, and may not be changed or modified in any regard except by an instrument in writing and signed by the parties hereto. No inference shall be drawn from any variance between this Assignment and any prior written negotiations or letters of intent with respect to, or drafts of, this Assignment. Each party acknowledges that no representations, inducements, promises, commitments or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not embodied herein.

4.2 Severability. It is expressly agreed that if any term or provision of this Assignment which is invalid or unenforceable in any jurisdiction, then such provision in such jurisdiction shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this Assignment or affecting the validity or enforceability of any of the terms or provisions of this Assignment in any other jurisdiction.

4.3 No Waiver. Failure of any party at any time to require performance of any provision of this Agreement shall not affect the right of any party to require full performance thereafter: a waiver by any party of a breach of any provision of this Agreement shall not constitute a modification of this Agreement or prevent that party from again enforcing such term or condition in the future with respect to subsequent events.

4.4 Relationship of the Parties. The relationship established between the parties by this Assignment shall be solely that of assignor and assignee. No principal-agent, joint venture, employment, or other relationship exists between ASSIGNOR and ASSIGNEE. Neither party hereto shall have any right or shall attempt to enter into contracts or commitments on behalf of the other party or to bind the other party in any respect whatsoever.

4.5 Counterparts; Facsimile Signatures. This Assignment may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one document. This Assignment may be signed by facsimile, and facsimile signatures shall be binding, but the parties shall provide each other with originally signed copies of the Assignment as soon as possible thereafter.

4.6 Captions. The captions in this Assignment are intended solely as a matter of convenience and shall be given no effect in the construction or interpretation of this Assignment.

4.7 Recitals. The parties agree that the recitals prior to Section 1 of this Assignment are true and correct and are hereby incorporated herein by this reference.

4.8 Force Majeure. The parties agree that neither shall be deemed in default of its obligations under this Assignment to the extent that the performance of any such obligations shall have been prevented by circumstances outside of such party's control, including, but not limited to, acts of God, fire, riot, war or government actions, but only to the extent of the duration of the circumstances comprising the basis for the operation of this section. If a party believes that any one or more of the above occurrences or events will cause a delay or prevent its performance hereunder, that party shall promptly notify the other party of such fact in writing.

4.9 Governing Law. This Assignment shall be governed by and construed in accordance with the internal laws of the State of Wisconsin, USA.

4.10 Recordation. ASSIGNOR hereby grants to ASSIGNEE and its attorneys the authority and power to have this Agreement recorded in the U.S. Patent and Trademark Office, in the Canadian Intellectual Property Office, and in foreign intellectual property governmental offices in Mexico, South Korea, and Taiwan.

IN WITNESS WHEREOF, this Assignment has been duly executed by the parties hereto as of the date first written above.

**ACE BAKING COMPANY
LIMITED PARTNERSHIP**

By TJHoldings, Inc.,
its General Partner

By: Edward N. Ruckel

Title: VICE PRESIDENT

Date: MARCH 17, 2000

KEEBLER COMPANY

By: [Signature]

Title: President Specialty Products

Date: 4/7/00

APPENDIX A

U.S. Trademark Registrations:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
DIP-TOP	2,062,931	5/20/1997
DUBLE HEDER	573,143	4/14/1953
EAT-IT-ALL	560,074	6/17/1952
HONEY-ROLL	682,989	8/4/1959
TAKE-OUT	688,061	11/10/1959
THE AMERICAN DREAM CONE	1,483,714	4/5/1988

U.S. Trademark Applications:

<u>Mark</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
BOY AND CONE Design	75/682,520	4/14/1999
GIRL AND CONE Design	75/682,516	4/14/1999