

01-18-2002



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002)

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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Tab settings

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

1. Name of conveying party(ies):

DAILY'S LA JOLLA, INC.

1-11-02

- Individual(s), Association, General Partnership, Limited Partnership, Corporation-State CA, Other

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

2. Name and address of receiving party(ies)

Name: FIT & FRESH, INC.

Internal Address: 8915 Towne Centre Drive

Street Address: Suite 103

City: San Diego State: CA Zip: 92122

- Individual(s) citizenship, Association, General Partnership, Limited Partnership, Corporation-State CA, 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

3. Nature of conveyance:

- Assignment, Merger, Security Agreement, Change of Name, Other

Execution Date:

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

1,919,019 1,919,020

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Stephen A. Colley

Internal Address:

Street Address: 12760 High Bluff Drive Suite 300

City: San Diego State: CA Zip: 92122

6. Total number of applications and registrations involved:

2

7. Total fee (37 CFR 3.41): \$ 65.00

- Enclosed, Authorized to be charged to deposit account

8. Deposit account number:

N/A

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(Attach duplicate copy of this page if paying by deposit account)

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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.

PAT O. DAILY

Name of Person Signing

Signature

10/15/01 Date

2

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

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

01/17/2002 LHMELLER 00000201 1919019

01 FC:481 02 FC:482

40.00 DP 25.00 DP

TRADEMARK REEL: 002426 FRAME: 0052

# ASSIGNMENT OF SERVICE MARK

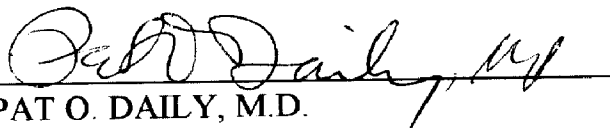
DAILY'S LA JOLLA, INC., a California corporation ("Assignor"), has adopted, used, and is using the service mark "Daily's Fit and Fresh" including a distinctive design element in connection with its restaurant business (the "Service Mark"). Assignor has registered its Service Mark as follows:

1. State of California, registered July 28, 1993, Service Mark Registration No. 042302.
2. Federal Patent and Trademark Office Principal Register, registered September 12, 1995, Registration No. 1,919,019.
3. Federal Patent and Trademark Office Principal Register, registered September 12, 1995, Registration No. 1,919,020.

Assignor has sold its restaurant business conducted at 8915 Towne Centre Drive, Suite 103, San Diego, California, including its rights in the Service Mark, to FIT & FRESH, INC., a California corporation ("Assignee"), pursuant to the Personal Property Escrow Instructions dated May 25, 2001, as amended by an Amendment to Escrow Instructions dated July 20, 2001, for the purchase and sale of assets used in the operation of Assignor's restaurant business; Assignor for good and valuable consideration, the receipt of which is hereby acknowledged, hereby assigns to Assignee all right, title, and interest in and to the "Daily's Fit and Fresh" Service Mark and the goodwill of the business symbolized thereby.

Effective as of 10/15, 2001.

DAILY'S LA JOLLA, INC.,  
a California corporation

By:   
PAT O. DAILY, M.D.  
President