

02-27-2002



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

RE 1

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

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

1. Name of conveying party(ies):

Clem-Del, Inc.

2-8-02

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

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

2. Name and address of receiving party(ies)

Name: Union National Bank and Trust

Internal Address: Company of Souderton

Street Address: Broad and Main Streets

City: Souderton State: PA Zip: 18964

- Individual(s) citizenship Association National Banking Association General Partnership Limited Partnership Corporation-State 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 Acknowledgement, Amendment Other and Confirmation of Collateral Assignment

Execution Date: 12/13/01

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

A. Trademark Application No.(s) 75/738724 75/721625 75/720727 75/686149 75/686032

B. Trademark Registration No.(s) 1911984

Additional number(s) attached Yes No

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

Name: Robert F. Zielinski

Internal Address: Wolf, Block, Schorr and Solis-

Cohen LLP

22nd Floor

Street Address: 1650 Arch Street

City: Philadelphia State: PA Zip: 19103-2097

6. Total number of applications and registrations involved:

6

7. Total fee (37 CFR 3.41) \$ 165.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

F B - 8 2002

DO NOT USE THIS SPACE

9. Signature.

Robert F. Zielinski

Name of Person Signing

Handwritten signature

Signature

JAN 23 02

Date

Total number of pages including cover sheet, attachments, and document: 7

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

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TRADEMARK REEL: 002449 FRAME: 0851

**ACKNOWLEDGMENT, AMENDMENT AND CONFIRMATION OF  
COLLATERAL ASSIGNMENT OF PATENTS, TRADEMARKS AND LICENSES**

THIS ACKNOWLEDGMENT, AMENDMENT AND CONFIRMATION OF COLLATERAL ASSIGNMENT OF PATENTS, TRADEMARKS AND LICENSES ("Amendment") is made this 13<sup>th</sup> day of December, 2001 by and between CLEM-DEL, INC., a Delaware corporation (the "Assignor"), and UNION NATIONAL BANK AND TRUST COMPANY ("Union"), as agent for Union and First Union National Bank ("First Union") (the "Assignee").

**BACKGROUND**

A. As security for all present and future obligations and indebtedness of Assignor to Assignee, whether direct or contingent, including, without limitation, all obligations of Assignor under that certain Loan and Security Agreement by and among, inter alios, Assignee and Assignor, as amended and modified pursuant to which Union and First Union (collectively, the "Lenders") agreed to extend certain credit facilities to Assignor, Clemens Markets, Inc., CMKBC, Inc., CME, Inc. and Clemens Country Kitchen, Inc. (collectively the "Borrowers"), Clemens Markets, Inc. executed and delivered to Assignee that certain Collateral Assignment of Patents, Trademarks and Licenses in favor of Assignee dated May 14, 1993 and recorded with the United States Patent and Trademark Office at Reel 0972, Frame 0362 on May 19, 1993 (as the same may be amended from time to time, being the "**Collateral Assignment**").

B. On September 8, 1995, Clemens Markets, Inc. conveyed all its right, title and interest in all trademarks covered by the Collateral Assignment to Clem-Del, Inc., the registration and application therefor, the good will of the business symbolized thereby, and all choses in action relating thereto.

C. On October 5, 1999, Borrowers, Lenders and Agent amended and restated the Loan Agreement, as evidenced by that certain Amended and Restated Loan and Security Agreement by and among Borrowers and Agent (such Amended and Restated Loan and Security Agreement, as it may hereafter be amended, extended, supplemented or restated is referred to herein as the "**Amended and Restated Loan Agreement**"), and Lenders agreed to, inter alia, (i) modify certain terms of the Loan Agreement and (ii) extend a new term loan to Borrowers in the original principal amount of Six Million Dollars (\$6,000,000.00) ("**Term Loan E**").

D. In connection with the Amended and Restated Loan Agreement, Assignee and Assignor have agreed (i) that Assignor shall grant to Assignee as additional security for Borrowers' obligations, a security interest in and lien against the additional trademarks listed on Exhibit "A" attached hereto and made a part hereof (collectively, the "**Additional Trademarks**") and the additional patent listed on Exhibit "B" attached hereto and made a part hereof (the "**Additional Patent**") and (ii) that Assignor shall amend and confirm the terms of the Collateral Assignment to, inter alia, specifically secure, without limitation, the Borrowers' obligations under the Amended and Restated Loan Agreement and Term Loan E.

E. Capitalized terms used herein and not otherwise defined shall have the meanings provided for such terms in the Collateral Assignment.

**NOW, THEREFORE**, the parties hereto, intending to be legally bound hereby, agree as follows:

1. **Assumption.** By virtue of its ownership of the Additional Trademarks and Additional Patent, Assignor has assumed and hereby assumes all the obligations of Clemens Markets, Inc. under the Collateral Assignment.

2. **Additional Collateral.** **Exhibit "B"** of the Collateral Assignment is hereby amended to include the Additional Trademarks and **Exhibit "A"** of the Collateral Assignment is hereby amended to include the Additional Patent.

3. **Loan Agreement.** The definition of Loan Agreement contained in the Background Paragraph A of the Collateral Assignment is hereby amended to specifically include, without limitation, the Amended and Restated Loan Agreement, as the same may be amended from time to time, and all references in the Collateral Assignment to the Loan Documents shall expressly include, without limitation, the Amended and Restated Loan Agreement.

4. **Notes.** The definition of Notes contained in Paragraph A of the Collateral Assignment shall specifically include the W/C Note, the Project Line Note, Term Note E and all other Notes (as defined in the Amended and Restated Loan Agreement).

5. **Bank Indebtedness.** The definition of Bank Indebtedness contained in **Section 1** of the Collateral Assignment is hereby amended to specifically include, without limitation, all obligations under and in connection with the Amended and Restated Loan Agreement and all other Bank indebtedness as defined in the Amended and Restated Loan Agreement.

6. **Ratification and Confirmation.** As amended hereby, all of the terms and conditions of the Collateral Assignment, all documents in connection therewith and all liens, security interests, rights and remedies granted therein, remain in full force and effect and are hereby ratified, confirmed and continued as security for all obligations of Borrowers to Assignee, including, without limitation, all obligations under and in connection with the Amended and Restated Loan Agreement.

7. **Binding Effect.** This Amendment shall be binding upon the successors, assigns and personal representatives of Assignor and shall inure to the benefit of the successors and assigns of Assignee.

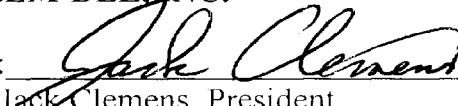
8. **Severability.** The provisions of this Amendment are deemed to be severable and the invalidity or unenforceability of any provision shall not affect or impair the remaining provisions which shall continue in full force and effect.


9. **Governing Law.** This Amendment shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania.

10. **Headings.** The headings of this Amendment are inserted for convenience only and shall not be deemed to constitute a part of this Amendment.

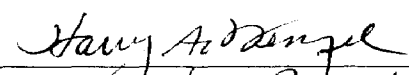
IN WITNESS WHEREOF, the parties hereto have executed this Amendment effective as of the date first above written.

**CLEM-DEL, INC.**

By:   
Jack Clemens, President

Attest:   
Name/Title: Assistant Treasurer

**UNION NATIONAL BANK AND TRUST  
COMPANY OF SOUDERTON, as Agent**

By:   
Name/Title: Vice President

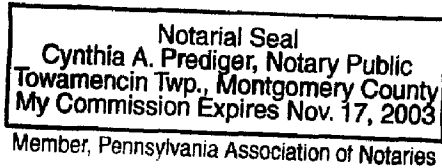
COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF Montgomery : SS

On this, the 13<sup>th</sup> day of December 2001, before me, a Notary Public, personally appeared Jack Clemens who acknowledged himself to be the President of Clem-Del, Inc., a Delaware corporation, and that he as such officer, being duly authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the corporation by himself as such officer.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

Cynthia A. Prediger  
Notary Public  
My commission expires:



COMMONWEALTH OF PENNSYLVANIA :

COUNTY OF Montgomery : SS

On this, the 11<sup>th</sup> day of January, 2002, before me, a Notary Public, personally appeared Harry A. Wenzel who acknowledged himself to be a Vice President of Union National Bank and Trust Company of Souderton, and that he as such officer, being so authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing on behalf of the Assignee himself as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Edward L. Hirsch  
Notary Public  
My commission expires:

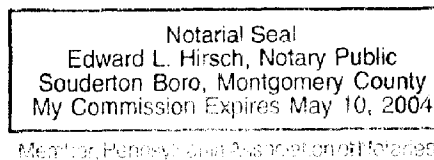


EXHIBIT "A"

ADDITIONAL TRADEMARKS

<u>Trademark</u>	<u>Reg. No.</u>	<u>Issue Date</u>
Clemmie (with design)	1,911,984	8/15/95

**Applications**

<u>Trademark</u>	<u>Serial No.</u>	<u>Filing Date</u>
Consider the Source	75/738,724	6/28/99
Gatherings	75/721,625	6/1/99
(Leaf Design)	75/720,727	6/1/99
Mother Nature's Garden	75/686,149	4/19/99
Mother Nature's Garden (with design)	75/686,032	4/19/99

**EXHIBIT "B"**

**ADDITIONAL PATENT**

U.S. Patent Application No. 08/516,949 for "Salad Bar Unit with Refrigerated Overhead Storage Cabinet"

BLU:77244.1/UNT121-129393

**RECORDED: 02/08/2002**

**TRADEMARK  
REEL: 002449 FRAME: 0857**