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Docket No.: C40000/125166

U.S. Department of Commerce
03-19-2002
102022334

OFFICE OF PUBLIC RECORDS
2002 FEB 20 PM 3:41
FINANCE SECTION

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

2-20-02

- [x] New
- [ ] Resubmission (Non-Recordation)
  Document ID #
- [ ] Correction of PTO Error
  Reel # Frame #
- [ ] Corrective Document
  Reel # Frame #

Conveyance Type

- [ ] Assignment
- [ ] License
- [x] 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: 08 24 2001

Name: Harp's Food Stores, Inc.

Formerly:

- [ ] Individual
- [ ] General Partnership
- [ ] Limited Partnership
- [x] Corporation
- [ ] Association
- [ ] Other
- [x] Citizenship/State of Incorporation/Organization: Arkansas

Receiving Party

[ ] Mark if additional names of conveying parties attached

Name: Bank of America, N. A.

DBA/AKA/TA:

Composed of:

Address (line 1): 231 S. LaSalle Street

Address (line 2):

Address (line 3): Chicago (City) IL/USA (State/Country) 60697 (Zip Code)

- [ ] Individual
- [ ] General Partnership
- [ ] Limited Partnership
- [ ] Corporation
- [ ] Association
- [x] Other: National Association (Banking)
- [ ] Citizenship/State of Incorporation/Organization: Not applicable

[ ] 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.)*

03/18/2002 GTON11 00000142 1823340

FOR OFFICE USE ONLY

01 FC:481 40.00 OP
02 FC:482 50.00 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

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: 314-259-2000

Name: Roxana Wizorek, Esq.

Address (line 1): Bryan Cave, LLP

Address (line 2): 211 North Broadway, Suite 3600

Address (line 3): St. Louis, MO 63102

Address (line 4)

Pages

Enter the total number of pages of the attached conveyance document including any attachments # 8

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)		
			1823340	1262710	2077337

Number of Properties

Enter the total number of properties involved # 3

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): $ $90.00

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: # 02-4467

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.

Roxana Wizorek		2/19/02
Name of Person Signing	Signature	Date Signed

Express Mail Label No.: EL938921286US
Docket No.: C40000/125166

INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT (as may be amended, supplemented and otherwise modified from time to time, "IP Security Agreement") is made and effective as of August 24, 2001, by **HARP'S FOOD STORES, INC.** (including any successor or permitted assignee thereof, "Grantor"), in favor of **BANK OF AMERICA, N.A.** (including any successor, participant, assignee or transferee thereof, "Agent"), as administrative agent for itself and the Lenders (as defined in the Credit Agreement referred to below).

RECITALS

WHEREAS, Grantor, Harp's Food Stores, Inc. ("Harp's") and each direct and indirect Subsidiary of Grantor and Concord (each, a "Borrower"; collectively, the "Borrowers") desire and have applied to Agent and the Lenders for a credit facility pursuant to which up to $63 million can be borrowed from time to time; and

WHEREAS, pursuant to that certain Financing Agreement by and among Borrowers, Lenders and Agent dated as of August 24, 2001 (as may be amended from time to time, "Loan Agreement"), a condition precedent to the obligation of the Agent or any Lender to execute and perform under the Loan Agreement is that Grantor shall have executed and delivered that certain Security Agreement and Equity Pledge executed by Grantor in favor of Agent for the benefit of Agent and the Lenders dated as of August 24, 2001 (as may be amended from time to time, "Security Agreement") encumbering all of Grantor's tangible and intangible personal property assets in favor of Agent for the benefit of Agent and the Lenders; and

WHEREAS, under the terms of the Security Agreement, Grantor has agreed to assign certain intellectual property to Agent for purposes of securing the obligations to Agent and the Lenders under the Loan Agreement and related Loan Documents; and

WHEREAS, Grantor has determined that it is in its best interest to execute this IP Security Agreement inasmuch as Grantor will derive substantial direct and indirect benefits from the funding of the Advances by Agent pursuant to the Loan Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Grantor and Agent hereby agree as follows:

1. Grant. Grantor hereby grants to Agent an absolute, present, unconditional, continuing first priority security interest in and to Grantor's entire right, title and interest in and to the following property and rights (collectively, the "Collateral"):

(a) The U.S., state and foreign copyrights, associated copyright registrations and applications for copyright registration, and copyright licenses set forth on Schedule A attached hereto (collectively, the "Copyrights"); and

(b) The U.S., state and foreign patents and patent applications, and patent licenses set forth on Schedule B attached hereto, including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same (collectively, the "Patents"); and

(c) The U.S., state and foreign trademark and service mark registrations, trademark and service mark applications (except for "intent to use" applications for trademark or service mark applications filed pursuant to Section 1(b) of the Lanham Act, unless and until an Amendment to Allege Use or a Statement of Use under Section 1(c) or 1(d) of said Act has been filed), and trademark and service mark licenses set forth on Schedule C attached hereto (including all associated goodwill, collectively, the "Trademarks"); and

(d) Any and all claims and causes of action for past, present or future infringement of any of the Collateral, with the right, but not the obligation, to sue for and collect damages for infringement of the Collateral; and

(e) Any and all licenses or rights granted under any of the Collateral, and all license fees and royalties arising from such licenses or rights, to the extent permitted by such licenses or rights; and

(f) Any and all amendments, renewals, extensions, reissuances and replacements of any of the Collateral; and

(g) Any and all products and proceeds of any of the foregoing.

2. Requested Recordation. Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks (and any state, foreign or other authorities to which this IP Security Agreement is submitted) to file and record this IP Security Agreement (and any corresponding or separate application forms of such jurisdiction) in order to publicly reflect Agent's interest in the Collateral.

3. Assignment. Upon the occurrence of an Event of Default (as defined in the Security Agreement), Grantor shall execute and deliver to Agent an absolute assignment transferring its entire right, title, and interest in and to the Collateral to Agent.

4. Power of Attorney. Grantor hereby irrevocably grants Agent a power of attorney, to act as Grantor's attorney-in-fact, with full authority in the name, place and stead of Grantor, from time to time in Agent's reasonable discretion regardless of whether a Default or Event of Default is occurring:

(a) To modify or amend (in Agent's sole discretion and without first obtaining Grantor's approval of or signature thereto) Schedule A, Schedule B, and/or Schedule C hereof, as appropriate, to include references to any registered intellectual property (or application or license therefor) acquired by Grantor after the execution hereof or to delete any reference to any Collateral in which Grantor no longer has or claims any right, title or interest; and

(b) To execute, file and pursue (in Agent's sole discretion and without first obtaining Grantor's approval of or signature thereto, unless otherwise prohibited by applicable law) any application, form or other document in order to perfect, maintain, continue or otherwise protect Agent's interest or Grantor's rights in the Collateral, including, without limitation, executing and filing (i) any financing statement, any continuation statement or any amendment thereto, and (ii) any document in any proceeding before the United States Patent and Trademark Office, the United States Copyright Office or the relevant office of any state or foreign jurisdiction (including, without limitation, the filing of applications for renewal, affidavits of use, affidavits of incontestability and opposition, interference and cancellation proceedings) and to pay any fees and taxes in connection therewith or otherwise; and

(c) To execute any assignment or other document required to acknowledge, register or perfect Agent's interest in any part of the Collateral without the signature of Grantor unless prohibited by applicable law.

Grantor also hereby irrevocably grants Agent a power of attorney, to act as Grantor's attorney-in-fact, with full authority in the name, place and stead of Grantor, from time to time in Agent's discretion after the occurrence and during the continuance of a Default or an Event of Default, to take any other action and to execute any other instrument which Agent may deem reasonably necessary or advisable to accomplish the purposes of the Security Agreement or this IP Security Agreement.

The foregoing power of attorney is coupled with an interest and is irrevocable but will terminate upon the termination of the Security Agreement.

5. Release. The security interest granted herein will terminate (and all rights to the Collateral will revert to Grantor) upon satisfaction of the following conditions: (a) payment and performance in full of all the obligations secured hereby (unconditionally and indefeasibly) and (b) the termination of the Loan Agreement (and the facilities thereunder). Upon any such termination, Agent (at Grantor's request and sole expense) will execute and deliver to Grantor (without any representation, warranty or recourse of any kind whatsoever) such documents as Grantor may reasonably request and provide to Agent to evidence such termination.

6. Miscellaneous. This IP Security Agreement has been entered into in conjunction with the provisions of and the security interest granted to Agent under the Security Agreement. The rights and remedies of Grantor and Agent with respect to the security interest granted herein are in addition and without prejudice to those set forth in the Security Agreement and the Loan Agreement, all terms and provisions of which are hereby incorporated herein by reference. This IP Security Agreement may be executed in any number of counterparts with the same effect as if all the signatures on such counterparts appeared on one document; each such counterpart will be deemed to be an original but all counterparts together will constitute one and the same instrument. In the event that any provisions of this IP Security Agreement are deemed to conflict with the Security Agreement or the Loan Agreement, the provisions of the Security Agreement or Loan Agreement shall govern.

TRADEMARK
REEL: 002463 FRAME: 0107

IN WITNESS WHEREOF, the parties hereto have executed this IP Security Agreement, as an instrument under seal (whether or not any such seals are physically attached hereto), through their duly authorized officers, as of the date first written above.

WITNESS:

By: _____
Name:
Title: Secretary

[CORPORATE SEAL]

HARP'S FOOD STORES, INC.
(as Grantor)

By: _____
Name: Roger Collins
Title: President, Chief Executive Officer

Address: 918 Gutensohn
Springdale, AR 72762

Telephone: ( )
Facsimile: (501) 751-2343

WITNESS:

By: Jeffery J. White By:

BANK OF AMERICA, N.A.
(as Agent)

David A. Johanson
Name: David A. Johanson
Title: Vice President

231 South LaSalle Street
Chicago, Illinois 60697

Facsimile: (877) 206-8410
Telephone: (312) 828-7933

ACKNOWLEDGMENT

STATE OF Kansas :
: SS
COUNTY OF Wyandotte :

Before me, the undersigned, a Notary Public, on this 24th day of August, 2001, personally appeared Roger Collins, to me known personally, who, being by me duly sworn, did say that he/she is the President/CEO of HARP'S FOOD STORES, INC., and that said instrument (i.e., the Intellectual Property Security Agreement) was signed on behalf of said HARP'S FOOD STORES, INC. by authority of its board of directors, and the said Roger Collins acknowledged said instrument to be his/her free act and deed.

Linda L Jennings
Notary Public

My Commission Expires: LINDA L. JENNINGS NOTARY PUBLIC - STATE OF KANSAS
My Appt Expires 3/22/2002

SCHEDULE A

COPYRIGHT COLLATERAL

I. Registered Copyrights

Copyright Title	Registration Number	Registration Date

NONE.

II. Pending Copyright Applications

Copyright Title	Application Number	Filing Date	Date of Creation	Date of Publication

NONE.

III. Unregistered Copyrights

Copyright Title	Date of Creation	Date of Publication	Original Author/Owner	Date and Recordation Number of Assignment to Grantor	Date of Expected Registration (if applicable)

NONE.

IV. Copyright Licenses

Copyright	Licensor	Licensee	Effective Date	Expiration Date	Subject Matter

NONE.

10-27110.01

SCHEDULE B

PATENT COLLATERAL

I. Patents

Patent Number	Issue Country	Date	Title

NONE.

II. Pending Patent Applications

Patent Title	Atty. Docket Number	Serial Filing Country	Number	Date	Status

NONE.

III. Patent Licenses

Patent No.	Country	Licensor	Licensee	Effective Date	Expiration Date

NONE.

10-27110.01

SCHEDULE C

I. Registered Trademarks

Trademark Description	Country	Registration Number
"PRICE CUTTER"	1823340	
"PRICE CUTTER FOOD WAREHOUSE" and design of scissors slashing dollar sign	1,262,710	
"MARTHA HARP'S"	2,077,337	July 8, 1997

II. Pending Trademark Applications

Trademark Description	Atty. Docket Number	Country	Serial Number	Filing Date	Status

III. Trademark Licenses

Registration Number	Mark	Country	Licensor	Licensee	Effective Date	Expiration Date