

8-30-02



102206369

Send original documents or copy thereof.

To the Honorable Commissioner of Patents

1. Name of conveying party(ies):

Tedeschi Food Shops, Inc., TFS Franchise
-Corporation, Tedeschi 24, Inc.
 Individuals Association
 General Partnership Limited Partnership
 Corporate-State Massachusetts (for all 3 entities)
 Other

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

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other

Execution Date: April 25, 2002

2. Name and address of receiving party(ies):

Name: Fleet National Bank
Internal Address:
Street Address: 100 Federal Street
City: Boston State MA ZIP 02110

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

If assignee is not domiciled in the United States, a domestic representative designation is attached: yes no
(Designation must be a separate document from assignment) Additional name(s) & address(es) attached? yes no

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

A. Trademark Application No(s)

See Schedule B attached

B. Trademark Registration No.(s)

See Schedule A attached

Additional numbers attached? Yes No

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

Name: Judy Radoccia
Internal Address: Edwards & Angell, LLP
Street Address: 101 Federal Street
City: Boston State MA ZIP 02110

6. Total number of applications and registrations involved

20

7. Total fee (37 CFR 3.41)..... \$515.00

Enclosed
 Authorized to be charged to deposit account

8. Deposit Account Number:

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

DO NOT USE THIS SPACE

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.

Judy Radoccia
Name of Person Signing

Judy Radoccia
Signature

August 29, 2002
Date

Total number of pages including cover sheet, attachments, and document 11

SCHEDULE A**TRADEMARKS****Marks with Federal Registration**

<u>TRADEMARK</u>	<u>REGISTRATION NO.</u>	<u>REGISTRATION DATE</u>
CITY OASIS	2,266,833	8/3/99
CYBERCLUB 24	2,260,884	7/13/99
24 SELECT	2,097,604	9/16/97
DAILY DELI! THE SANDWICH MAKER	2,066,158	6/3/97
CAFE 24	2,057,893	4/29/97
24 SELECT	1,922,289	9/26/95
T Tedeschi Food Shops (and design)	2,506,626	11/13/01
Tedeschi Food Shops	2,490,262	9/18/01
T Tedeschi Food Shops Fast & Friendly (and design)	2,506,622	11/13/01
L'L PEACH (in logo form)	1,020,740	9/16/75
L'L PEACH (in logo form) (for bread and rolls)	1,853,750	9/13/94
L'L PEACH (and design)	1,631,949	1/1/91
Tedeschi Fast & Friendly Food Shops (trademark)	1,703,332	7/28/92
Stylized "T" Logo (trademark)	1,687,799	5/19/92
Stylized "T" Logo (service mark)	1,629,593	12/25/90
24!		
STORE24	76325467	10/16/01
L'L PEACH (and design)	76180749	12/14/00

SCHEDULE B

TRADEMARKS

Marks with Pending Applications

<u>TRADEMARK</u>	<u>SERIAL NO.</u>	<u>FILING DATE</u>
'CAUSE YOU JUST CAN'T WAIT	76043441	5/8/00
STORE24	76325468	10/16/01
STORE 24 CHILL-AHH 24!	76303971	8/22/01
STORE24	76325467	10/16/01
L'L PEACH (and design)	76180749	12/14/00

AMENDED AND RESTATED TRADEMARK SECURITY AGREEMENT

THIS AMENDED AND RESTATED TRADEMARK SECURITY AGREEMENT (this "Agreement") is made as of April 25, 2002, by **TEDESCHI FOOD SHOPS, INC., TFS FRANCHISE CORPORATION** and **TEDESCHI 24, INC.** (each individually, a "Debtor" and collectively, the "Debtors"), to and with **FLEET NATIONAL BANK** (the "Secured Party").

RECITALS

A. In connection with that certain Security Agreement dated as of July 24, 1996 between TFS Franchise Corporation and BayBank, N.A., predecessor in interest to the Lender (the "Original General Security Agreement"), TFS Franchise Corporation and BayBank, N.A. are parties to that certain Assignment of Trademarks and Patents as Collateral dated as of July 24, 1996 (the "Original IP Security Agreement").

B. On the date hereof, each Debtor has amended and restated the Original General Security Agreement by executing and delivering to the Secured Party a certain Amended and Restated Security Agreement of even date herewith, as the same may be amended, renewed, restated or extended from time to time (the "Amended and Restated General Security Agreement") by and among the Secured Party and the Debtors.

C. Each Debtor has agreed to amend and restate the Original IP Security Agreement by entering into this Agreement in furtherance of the rights granted to the Secured Party under the Amended and Restated General Security Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by each of the parties hereto, each Debtor hereby agrees as follows:

1. **Security Interest.** Each Debtor hereby grants to the Secured Party a continuing security interest in, and a collateral assignment and pledge of, all trademarks, service marks and trade names now or hereafter owned by such Debtor, whether registered or unregistered, including, but not limited to, those trademarks of such Debtor listed on **Schedule A** attached hereto and made a part hereof (collectively, the "Trademarks"), together with the goodwill of the business associated with and symbolized by such Trademarks (collectively, the "Collateral"), as security for the Obligations (as defined in the Amended and Restated General Security Agreement). Each Debtor hereby requests that the U.S. Commissioner of Patents and Trademarks record this Agreement with respect to the Trademarks.

2. **Representations and Warranties.** Each Debtor represents and warrants that:

2.1. **Schedule A** sets forth as of the date hereof all United States trademark registrations and applications owned by such Debtor.

2.2. As of the date hereof, the Collateral set forth on **Schedule A** is subsisting and has not been adjudged invalid or unenforceable.

2.3. As of the date hereof, no claim has been made that the use of any of the Collateral violates the rights of any third person and such Debtor is not aware of any basis for any such claim to be asserted.

2.4. Such Debtor is the sole and exclusive owner of the entire right, title and interest in and to the Collateral, free and clear of any lien, security interest or other encumbrances, including without limitation, pledges, assignments, licenses registered user agreements and covenants by such Debtor not to sue third persons (other than, licenses to franchisees of such Debtor, the security interest granted hereby and any of the foregoing entered into in the ordinary course of business).

2.5. Such Debtor has the full power and authority to enter into this Agreement and perform its obligations hereunder pursuant to its terms.

2.6. Such Debtor has used proper statutory notice in connection with its use of the Collateral to the extent commercially practicable and customary within the relevant industry.

3. Covenants. Each Debtor covenants and agrees as follows:

3.1. Such Debtor will keep the Collateral free from any lien, security interest or encumbrance (except in favor of the Secured Party) and will defend the Collateral and the title thereto against all claims and demands of all other persons at any time claiming the same or any interest therein.

3.2. Such Debtor shall not abandon any Collateral except such Collateral which could not reasonably be expected to have a Material Adverse Effect (as defined in the hereinafter defined Credit Agreement).

3.3. Such Debtor shall maintain all rights held by such Debtor relating to the Collateral except such Collateral which the failure to maintain could not reasonably be expected to have a Material Adverse Effect.

3.4. Until all of the Obligations shall have been indefeasibly paid in full in cash and the termination of the commitments therefor, such Debtor shall not enter into any agreement (including a license agreement) which conflicts with such Debtor's obligations under this Agreement other than agreements that could not reasonably be expected to have a Material Adverse Effect on the value of the Collateral, without the Secured Party's prior written consent.

3.5. Such Debtor will not sell or offer to sell or otherwise transfer the Collateral or any interest therein (other than non-exclusive licenses granted in the ordinary course of such Debtor's business) without the prior written consent of the Secured Party.

3.6. If such Debtor shall purchase, register or otherwise acquire rights to any new registrable or registered trademark, the provisions of Section 1 shall automatically apply thereto and at least annually such Debtor shall give to the Secured Party written notice thereof, and shall execute an amendment to **Schedule A** including such registrations and applications and shall take any other action reasonably necessary to record the Secured Party's interest in such trademarks with the U.S. Commissioner of Patents and Trademarks.

3.7. Such Debtor will continue to use proper statutory notice in connection with its use of the Collateral to the extent commercially practicable and customary within the relevant industry.

3.8. Such Debtor shall execute, or use its reasonable efforts at its reasonable expense to cause to be executed, such further documents as may be reasonably requested by the Secured Party in order to effectuate fully the grant of security interest set forth in Section 1 hereof.

4. **Remedies.** After the occurrence and during the continuance of any Event of Default (as defined in that certain Amended and Restated Credit Agreement dated as of the date hereof by and among the Debtors and the Secured Party (the "Credit Agreement")), the Secured Party may declare all Obligations secured hereby immediately due and payable and shall have the remedies set forth in Section 5 of the Amended and Restated General Security Agreement and the remedies of a secured party under the Uniform Commercial Code.

5. **Attorney-in-Fact.** Each Debtor hereby appoints the Secured Party, as such Debtor's attorney-in-fact (with full power of substitution and resubstitution) with the power and authority, after the occurrence of and during the continuance of any Event of Default, to execute and deliver, in the name of and on behalf of such Debtor, and to cause the recording of all such further assignments and other instruments as the Secured Party deems necessary or desirable in order to carry out the intent of the Amended and Restated General Security Agreement. Each Debtor agrees that all third parties may conclusively rely on any such further assignment or other instrument so executed, delivered and recorded by the Secured Party (or the Secured Party's designee in accordance with the terms hereof) and on the statements made therein.

6. **General.**

6.1. No course of dealing between any Debtor and the Secured Party, nor any failure to exercise, nor any delay in exercising on the part of the Secured Party, any right, power or privilege hereunder, under the Amended and Restated General Security Agreement, or under the Credit 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 thereof or the exercise of any right, power or privilege. No waiver by the Secured Party of any default shall operate as a waiver of any other default or of a similar default on a future occasion.

6.2. All of the Secured Party's rights and remedies with respect to the Collateral, whether established hereby or by the Amended and Restated General Security

Agreement, or by any other agreement or by law shall be cumulative and may be exercised singularly or concurrently. This Agreement is in addition to, and is not limited by nor in limitation of, the provisions of the Amended and Restated General Security Agreement or any other security agreement or other agreement now or hereafter existing between any Debtor and the Secured Party.

6.3. If any clause or provision of this Agreement 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.

6.4. This Agreement is subject to modification only by a writing signed by the parties, except as otherwise provided in Section 3.6 hereof.

6.5. The benefits and obligations of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

6.6. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws (other than the conflict of laws rules) of The Commonwealth of Massachusetts.

7. **Counterparts.** This Agreement may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall together constitute one and the same instrument.

[THE NEXT PAGE IS THE SIGNATURE PAGE]

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed and delivered as a sealed instrument as of the date set forth above.

FLEET NATIONAL BANK

By: Jennifer D. McGrady
Name: Jennifer D. McGrady
Title: Vice President

TEDESCHI FOOD SHOPS, INC.

By: Charles E. Fitzgibbons
Name: Charles E. Fitzgibbons
Title: President

TFS FRANCHISE CORPORATION

By: Charles E. Fitzgibbons
Name: Charles E. Fitzgibbons
Title: President

TEDESCHI 24, INC.

By: Charles E. Fitzgibbons
Name: Charles E. Fitzgibbons
Title: President

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF SUFFOLK

On this 28 day of April, 2002, before me appeared Charles E. Fitzgibbons to me personally known, who, being by me duly sworn, did say that he/~~she~~ is the president of each of Tedeschi Food Shops, Inc., TFS Franchise Corporation and Tedeschi 24, Inc., and that said instrument was signed and sealed on behalf of each such corporation by authority of its president, and he/~~she~~ acknowledged said instrument to be the free act and deed of each such corporation.

Julia H. Rowan
Notary Public
Print Name JULIA H. ROWAN
My Commission Expires 1/16/09

SCHEDULE A**TRADEMARKS****Marks with Federal Registration**

<u>TRADEMARK</u>	<u>REGISTRATION NO.</u>	<u>REGISTRATION DATE</u>
CITY OASIS	2,266,833	8/3/99
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24 SELECT	2,097,604	9/16/97
DAILY DELI! THE SANDWICH MAKER	2,066,158	6/3/97
CAFE 24	2,057,893	4/29/97
24 SELECT	1,922,289	9/26/95
T Tedeschi Food Shops (and design)	2,506,626	11/13/01
Tedeschi Food Shops	2,490,262	9/18/01
T Tedeschi Food Shops Fast & Friendly (and design)	2,506,622	11/13/01
L'I'L PEACH (in logo form)	1,020,740	9/16/75
L'I'L PEACH (in logo form) (for bread and rolls)	1,853,750	9/13/94
L'I'L PEACH (and design)	1,631,949	1/1/91
Tedeschi Fast & Friendly Food Shops (trademark)	1,703,332	7/28/92
Stylized "T" Logo (trademark)	1,687,799	5/19/92
Stylized "T" Logo (service mark)	1,629,593	12/25/90

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<u>TRADEMARK</u>	<u>SERIAL NO.</u>	<u>FILING DATE</u>
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STORE 24 CHILL-AHH 24!	76303971	8/22/01
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L'L PEACH (and design)	76180749	12/14/00

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C. Each Debtor has agreed to amend and restate the Original IP Security Agreement by entering into this Agreement in furtherance of the rights granted to the Secured Party under the Amended and Restated General Security Agreement.

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2. **Representations and Warranties.** Each Debtor represents and warrants that:

2.1. **Schedule A** sets forth as of the date hereof all United States trademark registrations and applications owned by such Debtor.

2.2. As of the date hereof, the Collateral set forth on **Schedule A** is subsisting and has not been adjudged invalid or unenforceable.

2.3. As of the date hereof, no claim has been made that the use of any of the Collateral violates the rights of any third person and such Debtor is not aware of any basis for any such claim to be asserted.

2.4. Such Debtor is the sole and exclusive owner of the entire right, title and interest in and to the Collateral, free and clear of any lien, security interest or other encumbrances, including without limitation, pledges, assignments, licenses registered user agreements and covenants by such Debtor not to sue third persons (other than, licenses to franchisees of such Debtor, the security interest granted hereby and any of the foregoing entered into in the ordinary course of business).

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3.2. Such Debtor shall not abandon any Collateral except such Collateral which could not reasonably be expected to have a Material Adverse Effect (as defined in the hereinafter defined Credit Agreement).

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3.5. Such Debtor will not sell or offer to sell or otherwise transfer the Collateral or any interest therein (other than non-exclusive licenses granted in the ordinary course of such Debtor's business) without the prior written consent of the Secured Party.

3.6. If such Debtor shall purchase, register or otherwise acquire rights to any new registrable or registered trademark, the provisions of Section 1 shall automatically apply thereto and at least annually such Debtor shall give to the Secured Party written notice thereof, and shall execute an amendment to **Schedule A** including such registrations and applications and shall take any other action reasonably necessary to record the Secured Party's interest in such trademarks with the U.S. Commissioner of Patents and Trademarks.

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4. **Remedies.** After the occurrence and during the continuance of any Event of Default (as defined in that certain Amended and Restated Credit Agreement dated as of the date hereof by and among the Debtors and the Secured Party (the "Credit Agreement")), the Secured Party may declare all Obligations secured hereby immediately due and payable and shall have the remedies set forth in Section 5 of the Amended and Restated General Security Agreement and the remedies of a secured party under the Uniform Commercial Code.

5. **Attorney-in-Fact.** Each Debtor hereby appoints the Secured Party, as such Debtor's attorney-in-fact (with full power of substitution and resubstitution) with the power and authority, after the occurrence of and during the continuance of any Event of Default, to execute and deliver, in the name of and on behalf of such Debtor, and to cause the recording of all such further assignments and other instruments as the Secured Party deems necessary or desirable in order to carry out the intent of the Amended and Restated General Security Agreement. Each Debtor agrees that all third parties may conclusively rely on any such further assignment or other instrument so executed, delivered and recorded by the Secured Party (or the Secured Party's designee in accordance with the terms hereof) and on the statements made therein.

6. **General.**

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Agreement, or by any other agreement or by law shall be cumulative and may be exercised singularly or concurrently. This Agreement is in addition to, and is not limited by nor in limitation of, the provisions of the Amended and Restated General Security Agreement or any other security agreement or other agreement now or hereafter existing between any Debtor and the Secured Party.

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By: Jennifer D. McGrady
Name: Jennifer D. McGrady
Title: Vice President

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By: Charles E. Fitzgibbons
Name: Charles E. Fitzgibbons
Title: President

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By: Charles E. Fitzgibbons
Name: Charles E. Fitzgibbons
Title: President

TEDESCHI 24, INC.

By: Charles E. Fitzgibbons
Name: Charles E. Fitzgibbons
Title: President

COMMONWEALTH OF MASSACHUSETTS
COUNTY OF Suffolk

On this 24 day of April, 2002, before me appeared Charles E. Fitzgibbons to me personally known, who, being by me duly sworn, did say that he/she is the president of each of Tedeschi Food Shops, Inc., TFS Franchise Corporation and Tedeschi 24, Inc., and that said instrument was signed and sealed on behalf of each such corporation by authority of its president, and he/she acknowledged said instrument to be the free act and deed of each such corporation.

Julia H. Rowan
Notary Public
Print Name JULIA H. ROWAN
My Commission Expires 1/16/09

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