

05-07-2003

Form PTO-1594

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(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

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

102442291

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

1. Name of conveying party(ies):

Admiral Subs Group, Inc.

S.S. 03

- ☐ Individual(s) ☐ Association
☐ General Partnership ☐ Limited Partnership
☒ Corporation-State
☐ 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: 08/03/00

2. Name and address of receiving party(ies)

Name: Clark Retail Development Company

Internal

Address: _____

Street Address: 210 5TH AVE SO #204

City: Edmonds State: WA Zip: 98020

- ☐ Individual(s) citizenship _____
☐ Association _____
☐ General Partnership _____
☐ Limited Partnership _____
☒ Corporation-State Washington
☐ 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

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

A. Trademark Application No.(s) _____

B. Trademark Registration No.(s) 1,761,574,

1,761,573, 1,764,733, more nos. attached

Additional number(s) attached ☒ Yes ☐ No

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

Name: Barnard, Loop & McCormack LLP

Internal Address: Attn: Timothy B. McCormack

P.O. Box 58888, Seattle, WA 98138-18888

Street Address: 947 Powell Ave. SW #105

City: Renton State: WA Zip: 98055

6. Total number of applications and registrations involved: _____

7

7. Total fee (37 CFR 3.41).....\$ 190.00

- ☒ Enclosed
☐ Authorized to be charged to deposit account

8. Deposit account number: _____

OFFICE OF PUBLIC RECORDS
203 MAY -5 AM 7:39
FINANCE SECTION

05/06/2003 DDYRNE 00000051 1761574

DO NOT USE THIS SPACE

01 FC:8521 Signature. 40.00 OP
02 FC:8522 150.00 OP

Theodore N. Clark

Name of Person Signing

Signature

Date

10

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. 20231TRADEMARK
REEL: 002726 FRAME: 0949

**Trademark Registration
Numbers Subject To Assignment**

<u>Registration No.</u>	<u>Date</u>	<u>Mark</u>
1,761,574	3/30/93	FULL BOAT
1,761,573	3/30/93	DESTROYER
1,764,733	4/13/93	ENOUGH FOR TWO OR JUST FOR YOU
1,703,894	7/28/92	SEAWEST SUB SHOPS
1,772,028	5/18/93	SUBSTANTIALLY MORE?
1,862,112	11/8/94	SUB SHOP
1,398,101	6/17/86	SUB SHOP

Additional Conveying Parties

1. Admiral Subs Group, Inc.
2. Admiral's
3. Admiral's Fleet, Inc.
4. Seawest Sub Shops
5. Christopher M. Swartz
6. Kane, Bernard J.
7. Ultimate Franchise Systems

ASSET PURCHASE AGREEMENT

FOR THE SALE OF ALL FRANCHISING RIGHTS, FRANCHISING AGREEMENTS, ROYALTY AGREEMENTS, DEVELOPMENT AGREEMENTS, TRADEMARKS, COPYRIGHTS, LOGOS AND ANY AND ALL OTHER ASSETS AND MATERIALS NECESSARY OR USED IN THE FRANCHISING OPERATIONS OF SEAWEST SUBS SHOP, FREE AND CLEAR OF ALL LIABILITIES.

Between

ADMIRAL'S FLEET, INC.

AND

**CLARK RETAIL DEVELOPMENT
COMPANY**

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made as of August 31, 2000 between Admiral's Fleet, Inc., (hereinafter referred to as "Admiral's" and/or "Seller"), a Washington Corporation and a wholly owned subsidiary of Ultimate Franchise Systems, Inc., a Colorado Corporation, and Clark Retail Development Company, (hereinafter referred to as "Clark" and/or "Buyer"), a Washington Corporation.

RECITALS

The parties hereto desire that Clark acquire all franchising rights, franchising agreements, royalty agreements, development agreements, trademarks, copyrights, logos and any and all other assets and materials necessary or used in the franchising operations of Seawest Subs Shop, free and clear of all liabilities.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meanings specified in this Article 1 unless the context expressly or by necessary implication otherwise requires:

1.1 Closing shall mean the delivery by Seller and Buyer of the various documents contemplated by this Agreement.

1.2 Closing Date shall mean the delivery by Buyer and Seller of the various documents contemplated by this Agreement or otherwise required in order to consummate this Agreement.

1.3 Corporations Code shall collectively mean the Colorado General Corporations Law, the Florida Statutes, and the Washington Statutes.

1.4 Securities Act shall mean the Securities Act of 1933, as amended, and the rules and regulations thereunder.

1.6 Assets shall mean all franchising rights, franchising agreements, royalty agreements, development agreements, trademarks, copyrights, logos and any and all other assets and materials necessary or used in the franchising operations of Seawest Subs Shop, free and clear of all liabilities.

1.7 Liabilities shall mean all liabilities carried on the books of Seawest Sub Shops at the time of closing as well as all matters of pending or threatened litigation asserted or unasserted claims from any source including all government agencies, taxing authorities, current or past franchisees and development agents and all creditors.

2. CLOSINGS AND TRANSFER

2.1 Closing. The Closing shall take place at the offices of Ultimate Franchise Systems, Inc., 2101 W. State Road 434, Suite 100, Longwood, Florida 32779, or by mail and facsimile, on August 31, 2000 at 10:00 a.m., or at such other day and time as Buyer and Seller shall agree (the "Closing Date") after all of the conditions to the parties' obligations to consummate this Agreement as set forth in this Agreement have been satisfied or waived.

2.2 Consideration. As consideration, Buyer shall pay to Seller a total of Two Hundred Seventy Thousand Dollars (\$270,000.00) in the following manner:

By execution of an Indemnification Agreement (attached hereto as Exhibit "A") in favor of Ultimate Franchise Systems, Inc., Admiral's Fleet, Inc., their officers and directors, for the relief of any and all obligation for the payments due on a certain promissory note (attached hereto as Exhibit "B") to Bernard J. and Ellen M. Kane and James P. and Patti Iseman and further by Buyer's agreement to make \$5,000.00 monthly payments in reduction of the said promissory note for a period of 43 months until the total sum of \$215,000.00 is paid in full.

Additionally, the Seller will retain a 20% ownership interest in Clark Retail Development Company. Upon the final and complete payment of all amounts outstanding and due Kane and Iseman, Seller, ~~at its sole right and discretion, may convert its 20% ownership~~ ^{YES} interest into a promissory note for \$55,000.00 secured by the assets of Clark Retail Development Company. This promissory note will be paid at \$5,000.00 per month for a continuous period of eleven months and will not bear interest. When a total of \$270,000.00 has been paid in full, Buyer will own 100% of the assets. ^{will}

2.3 Termination of Development Agent Agreement. Effective on the date of closing herein, a certain Development Agent Agreement dated December 8, 1999 between Admiral's Fleet, Inc. and Theodore N. Clark, Individually and as President of Clark Retail Development Company, as Development Agent, shall be terminated by mutual agreement of the parties.

2.4 Rebate Retention Program. Buyer agrees to use the Ultimate Franchise Systems, Inc.'s rebate Retention Program and Marketing support services until such time as Buyer deems it necessary to sever ties with the Rebate Program by giving 30 days' prior written notice to Ultimate Franchise Systems, Inc. In exchange for Ultimate Franchise Systems, Inc.'s services, Buyer will pay Ultimate Franchise Systems, Inc. 20% of such marketing fees/rebates collected.

Buyer agrees to remain a Pepsi National Account for a period terminating concurrently with the termination date of the National Agreement with Ultimate Franchise Systems, Inc. All rebate and marketing monies received in any fashion will go directly to Buyer and a full disclosure of those dollars as they pertain to Buyer will be supplied directly to Buyer.

3. MUTUAL REPRESENTATIONS AND WARRANTIES. Both Buyer and Seller are a "Company" for the purposes of this Article 3. Except as set forth in any exhibits to this Agreement, each Company represents and warrants to the other party hereto that:

3.1 Organization and Authority. The Company (I) is a corporation duly organized, validly existing and in good standing under the laws of the jurisdiction of its incorporation; (ii) has all necessary corporate power to own and lease its properties, to carry on its business as now being conducted and to enter into and perform this Agreement and all agreements to which the Company is or will be a party that are exhibits to this Agreement; and (iii) is qualified to do business in all jurisdictions in which the failure to so qualify would have a material adverse effect on its business or financial condition.

3.2 Authority relating to this Agreement: No Violation of Other Instruments.

3.2.1 The execution and delivery of this Agreement and all agreements to which Seller is or will be a party that are exhibits to this Agreement and the performance hereunder and thereunder by Seller have been duly authorized by all necessary corporate action on the part of Seller and, assuming execution of this Agreement and such other agreements will constitute legal, valid and binding obligations of Seller, enforceable against Seller in accordance with their terms, subject as to enforcement: (i) to bankruptcy, insolvency, reorganization, arrangement, moratorium and other laws of general applicability relating to or affecting creditors' rights; and (ii) to general principles of equity, whether such enforcement is considered in a proceeding in equity or at law.

3.2.2 To Seller's knowledge, neither the execution of this Agreement or any other agreement to which Seller is or will be a party that is an exhibit to this Agreement nor the performance of any of them by Seller will: (i) conflict with or result in any breach or violation of the terms of any decree, judgment, order, law or regulation of any court or other governmental body now in effect applicable to Seller (ii) conflict with, or result in, with or without the passage of time or the giving of notice, any breach of any of the terms, conditions and provisions of, or constitute a default under or otherwise give another party the right to terminate, or result in the creation of any lien, charge, or encumbrance upon any of the assets or properties of Seller pursuant to, any indenture, mortgage, lease, agreement or other instrument to which Seller is a party or by which it or any of its assets or properties are bound, including all Contracts (as defined in Section 4.13); (iii) permit the acceleration of the maturity of any material indebtedness of Seller or of any other person secured by the assets or properties of Seller; or (iv) violate or conflict with any provision of Seller's Articles of Incorporation, Bylaws, or similar organizational instruments.

3.3 Brokers and Finders. Neither Seller nor any shareholder, director, officer, employee or agent of Seller has retained any broker, finder or investment banker in connection with the transactions contemplated by this Agreement. Buyer and Seller will indemnify and hold the other party hereto harmless against all claims for brokers', finders' or investment bankers' fees made or asserted by any party claiming to have been employed by such Company or any shareholder, director, officer, employee or agent of such Company and all costs

and expenses (including the reasonable fees of counsel) of investigating and defending such claims.

4. **REPRESENTATIONS AND WARRANTIES OF SELLER**. Seller hereby Represents and warrants to Buyer that except as set forth in any exhibits to this Agreement:

4.1 **Compliance with Law**. To Seller's knowledge, Seller holds, and has at all times held, all licenses, permits and authorizations necessary for the lawful conduct of Seller's business whether conducted pursuant to all applicable statutes, laws, ordinances, rules and regulations of all governmental bodies, agencies and subdivisions having, asserting or claiming jurisdiction over Seller or over any part of Seller's operations and Seller knows of no violation thereof. Seller is not in violation of any decree, judgment, order, and to Seller's knowledge any law or regulation of any court or other governmental body (including without limitation, applicable franchise legislation and regulations, environmental protection legislation and regulations, equal employment and civil rights regulations, wages, hours and the payment of social security taxes and occupational health and safety legislation), which violation could have a material adverse effect on the condition, financial or otherwise, assets, liabilities, business or results of operations of Seller.

4.1.a This is an asset sale of the trademarks and other systems, marks, etc. used in the Seawest Sub Shops' franchise systems. The Seller warrants the existence of the trademarks as seen in the exhibits enclosed and makes no specific representations as to the collectability nor the status of the franchises. All documentation has been disclosed regarding the assets being purchased.

4.2 **Personal Property**. Seller has good title, free and clear of all liens, encumbrances and security interests, to all of its machinery, equipment, furniture, inventory, franchise agreements and other personal property. To Seller's knowledge, all of the leases to personal property utilized in the business of Seller are valid and enforceable against Seller and are not in default.

4.3 **Real Property**. Seawest Sub Shops does not own any real property being transferred hereby.

4.4 **Patents, Trademarks, Trade Names and Copyrights**. Exhibit "C" sets forth all patents, trademarks, trade names, copyrights, and other intellectual property owned or utilized by Seller. All patents, trademarks, trade names, copyrights, processes, designs, formulas, inventories, trade secrets, know-how, technology or other proprietary rights which are necessary to the conduct of Seller's business are owned or are useable by Seller. Upon the Closing all such items shall be owned or useable by Buyer to the same extent as by Seller immediately prior to the Closing. To Seller's knowledge, the conduct of any business conducted by Seller does not infringe any patent, trademark, trade name, copyright, trade secret, or other proprietary rights of any other person. No litigation is pending or, to the knowledge of Seller, has been threatened against Seller of any officer, director, shareholder, employee or agent of Seller, for the

infringement of any patents, trademarks or trade names of any other party or for the misuse or misappropriation of any trade secret, know-how or other proprietary right owned by any other party nor, to the best knowledge of Seller, does any basis exist for such litigation. To Seller's knowledge, there has been no infringement or unauthorized use by any other party of any patent, trademark, trade name, copyright, process, design, formula, invention, trade secret, know-how, technology or other proprietary right belonging to Seller.

4.5 Warranties. Seller has made no warranties or guarantees relating to its products other than as implied or required by law.

5. CONDITIONS TO THE OBLIGATION OF BUYER AND SELLER. The obligation of Buyer to consummate this Agreement is subject to the fulfillment, at or before the Closing of all the following conditions, any one or more of which may be waived by Buyer.

5.1 Representations and Warranties True at Closing. The representations and warranties of Seller and Buyer contained in this Agreement shall be deemed to have been made again at and as of the Closing with respect to the stated facts then existing and shall be true in all material respects.

5.2 Covenants Performed. All of the obligations of Seller and Buyer to be performed at or before the Closing pursuant to the terms of this Agreement shall have been duly performed.

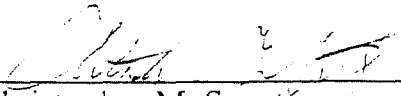
5.3 Shareholder/Board of Director Approval. This Agreement, to the extent required by law, shall have been duly approved by the shareholder and Board of Directors of Seller and Buyer, and by the Board of Directors of Buyer as of the date hereof. Both Seller and Buyer shall certify to the other at Closing that all such shareholder and board of director approvals continue to be effective as of the date of Closing.

5.4 Documentation. All actions, proceedings, instruments, resolutions, certificates, and documents reasonably requested Buyer to be executed and delivered to Buyer in order to carry out this Agreement and to consummate this Agreement, and all of the relevant legal matters, shall be reasonably satisfactory to Buyer and its counsel including, without limitation compliance with any applicable state or federal securities law or regulation.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this 31st day of August, 2000.

ADMIRAL'S FLEET, INC.

CLARK RETAIL DEVELOPMENT COMPANY

BY: 
Christopher M. Swartz
President

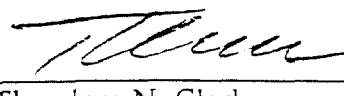
BY: 
Theodore N. Clark
President

EXHIBIT 'C'

<u>Registration No.</u>	<u>Date</u>	<u>Mark</u>
1,761,574	3/30/93	FULL BOAT
1,761,573	3/30/93	DESTROYER
1,764,733	4/13/93	ENOUGH FOR TWO OR JUST FOR YOU
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