



To the Honorable Commissioner of 102741011 original documents or copy thereof.

1. Name of conveying party(ies):

The Provident Bank

S. T. O. 4

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

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

3. Nature of conveyance:

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

Execution Date: 04/22/04

2. Name and address of receiving party(ies)

Name: The HillStreet Fund II, L.P.

Internal

Address: _____

Street Address: 300 Main Street, Suite 1C

City: Cincinnati State: OH Zip: 45202

- Individual(s) citizenship _____
- 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

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

A. Trademark Application No.(s) 76/108,005;
76/108,003; 75/796,764; 75/315,161

B. Trademark Registration No.(s) 1,455,831;
2,070,269; 2,430,333

Additional number(s) attached Yes No

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

Name: John S. Fronduti

Internal Address: Keating, Muething & Klekamp

Street Address: One East Fourth Street,

14th Floor

City: Cincinnati State: OH Zip: 45202

6. Total number of applications and registrations involved: 23

7. Total fee (37 CFR 3.41).....\$ 590.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

APR 23 7 11 AM '04
OPR/FINANCE

DO NOT USE THIS SPACE

9. Signature.

John S. Fronduti

Name of Person Signing

Signature

05/04/04

Date

9

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

05/10/2004 MGETACHE 00000049 76108005

01 FC:8521
02 FC:8522

40.00 DP
550.00 DP

**Recordation Form Cover Sheet – Attachment
Continuation of Item 4
Trademark Application Number(s) or Registration Number(s)
The Provident Bank to The HillStreet Fund II, L.P.**

Trademark Application no.(s)

75/792,073;
76/001,169;
76/050,217

Trademark Registration no.(s)

2,406,971
2,333,939
2,153,260
1,958,961
2,418,099
2,235,390
2,172,835
2,195,438
1,256,296
1,221,085
2,011,843
2,007,989
2,120,796

Assignment and Assumption

This ASSIGNMENT AND ASSUMPTION AGREEMENT ("Agreement") dated as of April 22, 2004 is made between THE PROVIDENT BANK ("Assignor") and THE HILLSTREET FUND II, L.P. ("Assignee").

Recitals

A. Assignor is party to the Loan Agreement dated as of January 24, 2002 (as amended, modified, supplemented, restated, or renewed from time to time, the "Loan Agreement"), among Blimpie International, Inc. (f/k/a Sandwich Acquisition Corp.) ("Borrower"), X2Y1, Inc. ("Guarantor"), The Provident Bank, as Agent for itself and other banks and lending institutions named therein (the "Lenders") and the Lenders. Capitalized terms used in this Agreement without definition have the meanings specified in the Loan Agreement.

B. Assignor has made a loan to the Borrower under the Loan Agreement in the original aggregate principal amount of \$5,214,285.71 of which \$3,297,767.84 is presently outstanding (the "Outstanding Loan");

C. Assignor wishes to assign to Assignee all rights and obligations of Assignor under the Loan Agreement in respect of the Outstanding Loan (the "Assigned Amount") on the terms and subject to the conditions set forth herein, and Assignee wishes to accept assignment of such rights and to assume such obligations from Assignor on such terms and subject to such conditions;

NOW, THEREFORE, in consideration of the foregoing and the mutual agreements contained herein, the parties hereto agree as follows:

1. Assignment and Acceptance.

(a) Subject to the terms and conditions of this Agreement, (i) Assignor hereby sells, transfers and assigns to Assignee, and (ii) Assignee hereby purchases, assumes and undertakes from Assignor, without recourse and without representation or warranty (except as provided in this Agreement) 100% (the "Assignee's Percentage Share") of (A) the Outstanding Loan of Assignor and (B) all related rights, benefits, obligations, liabilities and indemnities of Assignor under and in connection with the Loan Agreement and the Loan Documents.

(b) With effect on and after the Effective Date (as defined in Section 5), Assignee shall be a party to the Loan Agreement and succeed to all of the rights and be obligated to perform all of the obligations of a Lender under the Loan Agreement. Assignee agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Loan Agreement are required to be performed by it as a Lender. It is the intent of the parties hereto that the commitment of Assignor shall, as of the Effective Date, be reduced by an amount equal to the Assigned Amount and Assignor shall relinquish its rights and be released from its obligations under the Loan Agreement to the extent such obligations have been assumed by Assignee.

2. Payments.

As consideration for the sale, assignment and transfer contemplated in Section 1, Assignee shall pay to Assignor on the Effective Date in immediately available funds an amount equal to the amount agreed between Assignor and Assignee in the Purchase Price Letter dated as of the date hereof.

3. Reallocation of Payments.

Any interest, fees and other payments accrued to the Effective Date with respect to the Outstanding Loan shall be allocated as otherwise set forth in any written agreement between Assignor and Assignee.

4. Independent Credit Decision.

(a) Assignee acknowledges that it has received a copy of the Loan Agreement and the Schedules and Exhibits thereto, and such other document and information as it has deemed appropriate to make its own credit and legal analysis and decision to enter into this Agreement; and

(b) Assignee agrees that it will, independently and without reliance upon Assignor, the Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit and legal decisions in taking or not taking action under the Loan Agreement.

5. Effective Date; Notices.

As between Assignor and Assignee, the effective date for this Agreement shall be April 22, 2004 (the "Effective Date"); provided that the following conditions precedent have been satisfied on or before the Effective Date:

(i) this Agreement shall be executed and delivered by Assignor and Assignee; and

(ii) the conditions specified in Section 11.19 of the Loan Agreement are fully satisfied, as of the Effective Date (other than any notice to the Agent which is waived by Assignor).

6. Representations and Warranties.

(a) Assignor represents and warrants that:

(i) it is duly organized and existing and it has the full power and authority to take, and has taken, all action necessary to execute and deliver this

Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement and to fulfill its obligations hereunder;

(ii) no notices to, or consents, authorizations or approvals of, any Person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement, and apart from any agreements or undertakings or filings required by the Loan Agreement, no further action by, or notice to, or filing with any Person is required of it for such execution, delivery or performance;

(iii) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of Assignor, enforceable against Assignor in accordance with the terms hereof, subject, as to enforcement, to bankruptcy, insolvency, moratorium, reorganization and other laws of general application relating to or affecting creditors' rights and to general equitable principles; and

(iv) it is the legal and beneficial owner of the interest being assigned by it hereunder and that such interest is free and clear of any Lien or other adverse claim;

(b) Except as otherwise provided in any other agreement between Assignor and Assignee, Assignor makes no representation or warranty in connection with, and assumes no responsibility with respect to:

(i) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Agreement, any other Loan Document, or any other instrument or document furnished in connection therewith;

(ii) any statements, warranties or representations made in or in connection with the Loan Agreement, any other Loan Document, or any other instrument or document furnished in connection therewith; or

(iii) the solvency, financial condition or financial statements of the Borrower, or the performance or observance by the Borrower, of any of its obligations under the Loan Agreement, any other Loan Document, or any other instrument or document furnished in connection therewith.

(c) Assignee represents and warrants that:

(i) it is duly organized and existing and it has full power and authority to take, and has taken, all action necessary to execute and deliver this Agreement and any other documents required or permitted to be executed or delivered by it in connection with this Agreement, and to fulfill its obligations hereunder;

(ii) no notices to, or consents, authorizations or approvals of, any Person are required (other than any already given or obtained) for its due execution, delivery and performance of this Agreement; and apart from any agreements or

undertakings or filings required by the Loan Agreement, no further action by, or notice to, or filing with, any Person is required of it for such execution, delivery or performance;

(iii) it is an Eligible Institution; and

(iv) this Agreement has been duly executed and delivered by it and constitutes the legal, valid and binding obligation of Assignee, enforceable against Assignee in accordance with the terms hereof, subject, as to enforcement, to bankruptcy, insolvency, moratorium, reorganization and other laws of general application relating to or affecting creditors' rights and to general equitable principles.

7. Further Assurances.

Assignor and Assignee hereby agree to execute and deliver such other instruments, and take such other action, as either party may reasonably request in connection with the transactions contemplated by this Agreement, including the delivery of any notices or other documents or instruments to the Borrower or the Agent, which may be required in connection with the assignment and assumption contemplated hereby.

8. Miscellaneous.

(a) Any amendment or waiver of any provision of this Agreement shall be in writing and signed by the parties hereto. No failure or delay by either party hereto in exercising any right, power or privilege hereunder shall operate as a waiver thereof and any waiver of any breach of the provisions of this Agreement shall be without prejudice to any rights with respect to any other or further breach thereof.

(b) All payments made hereunder shall be made without any set-off or counterclaim.

(c) Assignor and Assignee shall each pay its own costs and expenses incurred in connection with the negotiation, preparation, execution and performance of this Agreement.

(d) This Agreement may be executed in any number of counterparts and all of such counterparts taken together shall be deemed to constitute one and the same instrument.

(e) THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF OHIO. Assignor and Assignee each irrevocably submits to the nonexclusive jurisdiction of any State or Federal court sitting in Ohio over any suit, action or proceeding arising out of or relating to this Agreement and irrevocably agrees that all claims in respect of such action or proceeding may be heard and determined in such Ohio State or Federal court. Each party to this Agreement hereby irrevocably waives, to the fullest extent it may effectively do so, the defense of an inconvenient forum to the maintenance of such action or proceeding.

(f) ASSIGNOR AND ASSIGNEE EACH HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION BASED HEREON, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT, THE LOAN AGREEMENT, THE LOAN DOCUMENTS, ANY RELATED DOCUMENTS AND AGREEMENTS OR ANY COURSE OF CONDUCT, COURSE OR DEALING, OR STATEMENTS (WHETHER ORAL OR WRITTEN).

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment and Assumption Agreement to be executed and delivered by their duly authorized officers as of the date first above written.

ASSIGNOR:

THE PROVIDENT BANK

By: Joseph R. Netzel
Name: JOSEPH R. NETZEL
Title: VICE PRESIDENT

ASSIGNEE:

THE HILLSTREET FUND II, L.P.

By: HILLSTREET CAPITAL II, INC.
Its: Investment Manager

By: _____
Name: Christian L. Meininger
Title: President

IN WITNESS WHEREOF, Assignor and Assignee have caused this Assignment and Assumption Agreement to be executed and delivered by their duly authorized officers as of the date first above written.

ASSIGNOR:

THE PROVIDENT BANK

By: _____

Name:

Title:

ASSIGNEE:

THE HILLSTREET FUND II, L.P.

By: HILLSTREET CAPITAL II, INC.

Its: Investment Manager

By:  _____

Name: Christian L. Meininger

Title: President