

08-23-2006

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



103293637

To the Director of the U. S. Patent and

Documents or the new address(es) below.

1. Name of conveying party(ies):

GMAC Commercial Finance LLC

- Individual(s)
- General Partnership
- Corporation- State: \_\_\_\_\_
- Other Limited Liability Company
- Association
- Limited Partnership

Citizenship (see guidelines) Delaware

Additional names of conveying parties attached?  Yes  No

3. Nature of conveyance /Execution Date(s) :

Execution Date(s) March 20, 2006

- Assignment
- Security Agreement
- Other Release of Trademarks
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached?  Yes  No

Name: Harry and David

Internal

Address: \_\_\_\_\_

Street Address: 2518 South Pacific Highway

City: Medford

State: Oregon

Country: USA Zip: 97501

- Association
- General Partnership
- Limited Partnership
- Corporation
- 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)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)  
See continuation of Item 4 attached hereto

B. Trademark Registration No.(s)  
See continuation of Item 4 attached hereto

Additional sheet(s) attached?  Yes  No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

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

Name: Gayle D. Grocke

Internal Address: Latham & Watkins LLP

Suite 5800

Street Address: 233 S. Wacker Drive

City: Chicago

State: Illinois Zip: 60606

Phone Number: 312-993-2622

Fax Number: 312-993-9767

Email Address: gayle.grocke@lw.com

6. Total number of applications and registrations involved:

52

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 1,315.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number \_\_\_\_\_

Authorized User Name \_\_\_\_\_

9. Signature:

Gayle D. Grocke  
Signature

8/21/2006  
Date

Gayle D. Grocke

Name of Person Signing

Total number of pages including cover sheet, attachments and document: 12

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:  
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22304-1450

08/23/2006 DBYRNE 00000042 76568403

01 FC:8521 40.00 OP  
02 FC:8522 1275.00 OP  
03 FC:8523 120.00 OP

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TRADEMARK  
REEL: 003375 FRAME: 0877

## Continuation of Item 4

Schedule F\*

Mark Name	Description	Filing Date	App. No.	Reg. Date	Reg. No.	Renewal
HARVESTING A LEGEND	annual promotional theme for retail and mail order services in the field of foods, flowers, and other gifts, via the Internet and through catalogs and signage	12/22/2003	76/568,403			
AMERICA'S FAVORITE BUSINESS GIFTS	mail order services in the field of foods, flowers, and other gifts	12/2/2003	76/565,166			
GIFT E- NOUNCEMENT	providing temporary use of on-line non- downloadable software for use in creating customized announcements of gifts	3/7/2002	76/379,928	1/21/2003	2,677,518	1/21/2013
HARVEST HOTLINE	providing information in the field of shipping of harvested fruit by providing shipping dates of orders by a dedicated telephone line	1/13/1998	75/417,590	12/14/1999	2,301,034	12/14/2009
MOOSE MUNCH	candy	11/29/1994	74/604,129	9/17/1996	2,000,672	9/17/2006
CALL YOUR MOM ON MAY 12...(BUT CALL US TODAY!)	mail order services in the field of foods, flowers and other gifts	10/21/1996	75/184,829	8/26/1997	2,091,423	8/26/2007
HARRY AND DAVID HEARTHSIDE SOUPS	dried soup mixes	12/5/1995	75/028,024	6/24/1997	2,074,493	6/24/2007
THE LIGHT SIZE IS THE RIGHT SIZE	mail order services in the field of fresh fruits	3/3/1997	75/250,893	5/12/1998	2,157,770	5/12/2008
HEAVENLY HEARTS	candy and chocolate	11/26/2001	76/342,045	5/20/2003	2,718,029	5/20/2013
SO BIG AND JUICY, YOU EAT THEM WITH A SPOON	fresh pears	12/21/2001	76/352,649	9/24/2002	2,624,862	9/24/2012
ORIGINAL OREGON VEGGIE CLUB	bakery goods and sauces	11/13/1989	73/838437	6/12/1990	1,601,683	6/12/2010
CLUB MEDLEY	mail order services in the field of fresh vegetables	1/23/1991	74/132,844	11/2/1993	1,802,945	11/2/2013
THE FAVORITE	mail order services in the field of fresh fruits and vegetables	5/6/1992	74/272,856	12/22/1992	1,742,002	12/22/2012
HARRY AND DAVID'S TOWER OF CHOCOLATES	mail order services in the field of gift food items	11/19/1991	74/223,092	3/23/1993	1,760,420	3/23/2013
	meats and processed foods, staple foods	6/10/1987	73/666,079	5/31/1988	1,490,371	5/31/2008
	candy	2/27/1991	74/143,461	4/14/1992	1,683,115	4/14/2012

Mark Name	Description	Filing Date	App. No.	Reg. Date	Reg. No.	Renewal
LIGHT SIZE CLUBS FAVORITES CLUB	mail order services in the field of fresh fruits	4/19/1991	74/159,836	6/23/1992	1,696,650	6/23/2012
BASKETS BY YOU	mail order services in the field of gift items containing food and other items	8/29/1991	74/199,302	8/18/1992	1,708,950	8/18/2012
MAVERICK TRIPLE TREAT	fresh fruit; namely, pears	7/26/1989	74/082,289	4/14/1992	1,683,344	4/14/2012
	fresh fruit, namely, packages containing pears, oranges and apples	12/24/1990	74/126,296	11/12/1991	1,664,304	11/12/2011
	packages containing pears, oranges and apples	12/24/1990	74/126,297	11/12/1991	1,664,305	11/12/2011
MERRY MIX-UP	packages including fresh fruit namely, pears and apples, nuts (unshelled), figs, dates, prunes, trail mix and glazed cherries	2/12/1991	74/139,653	1/14/1992	1,671,916	1/14/2012
HARRY AND DAVID (STYL)	mail order services	6/27/1988	73/736,543	3/7/1989	1,529,034	3/7/2009
WILD 'N RARE	nutritional supplements (class 5); smoothies (class 32)	6/30/2003	76/526,377			
MOOSE MUNCH	candy, coffee and bakery desserts	8/18/2003	76/541,385			
ALL THE BEST FOR GIFTS OR GUESTS	mail order services in the field of foods, flowers and other gifts	6/7/2001	76/269,275	2/19/2002	2,540,387	2/19/2012
BEARWINKLE	stuffed toy animals	5/8/2002	76/404,507	12/16/2003	2,795,776	12/16/2013
HARVEST HOTLINE	providing information in the field of shipping of harvested fruit by providing shipping dates of orders by a dedicated telephone line	2/11/2003	76/489,398	2/24/2004	2,816,557	2/24/2014
CRATER LAKE CRUNCH	snack mix consisting primarily of one or more of the following ingredients - granola, dried fruit, raisins, chocolate covered ingredients, yogurt covered ingredients, chocolate chips, white chocolate chips, nuts and pretzels (in Class 29)	3/10/2003	76/496,082			

Mark Name	Description	Filing Date	App. No.	Reg. Date	Reg. No.	Renewal
	snack mix consisting primarily of one or more of the following ingredients - granola, dried fruit, raisins, chocolate covered ingredients, yogurt covered ingredients, chocolate chips, white chocolate chips, nuts and pretzels (in Class 30)					
HARRY AND DAVID'S COOKIES FOR CONNOISSEURS	retail store services, online retail store services, and mail order catalog services in the field of bakery goods	2/15/2000	75/919,211	11/6/2001	2,505,492	11/6/2011
EASY ENTERTAINING	mail order services in the field of foods, flowers, and other gifts	1/5/1999	75/616,046	11/28/2000	2,409,346	11/28/2010
HARRY AND DAVID'S OFF THE PAGE & DESIGN WILD 'N SPICY	retail store services	12/6/2000	76/177,056	6/4/2002	2,575,673	6/4/2012
	cheese dips, processed olives, and jellies; salsas, taco chips, relishes, mustards, hot sauces, and biscuits; non-alcoholic cocktail drink mix, namely, margarita mix and bloody mary mix	3/24/1998	75/455,458	11/21/2000	2,406,736	11/21/2010
ALWAYS APPROPRIATE, ALWAYS APPRECIATED AMERICA'S FAVORITE BUSINESS GIFTS	mail order services in the field of foods, flowers, and other gifts	9/1/1998	75/547,201	2/27/2001	2,432,069	2/27/2011
HAPPY HOLIDAYS ARE OUR BUSINESS	mail order services in the field of foods, flowers, and other gifts	9/1/1998	75/547,200	1/4/2000	2,306,720	1/4/2010
FRUIT-OF-THE-MONTH-CLUB	preserved/processed fruits, cheese	12/30/1998	75/613,640	6/12/2001	2,460,142	6/12/2011
H&D PORTRAITS AND DESIGN	fresh fruits, fruit preserves	11/4/1969	72/342,637	12/29/1970	905,212	12/29/2010
ROYAL RIVERA PEARS SO BIG AND JUICY, YOU EAT THEM WITH A SPOON	fresh pears	11/18/1963	72/181,354	7/14/1964	773,302	7/14/2004
ROYAL BEURRE OREGOLD	fresh pears	12/19/1960	72/110,436	2/6/1962	727,298	2/6/2012
	fresh pears	5/9/1975	73/051,959	4/5/1977	1,062,873	4/5/2007
	fresh fruits	2/18/1939	71/416,175	6/27/1939	368,755	6/27/2009
HARRY AND DAVID (STYL)	preserved fruits, candy, cured meats	2/10/1964	72/186,355	8/3/1965	793,717	8/3/2005
CHERRYDILLS	pickled cherries	9/8/1964	72/201,425	4/19/1966	807,323	4/19/2006
ROYAL RIVIERA	fresh pears	9/19/1936	71/383,445	3/2/1937	343,706	3/2/2007

Mark Name	Description	Filing Date	App. No.	Reg. Date	Reg. No.	Renewal
TOWER OF TREATS	gift package of fruit, candy, nuts, and cheese	6/7/1966	72/247,505	10/24/1967	837,603	10/24/2007
WILD 'N RARE (STYLIZED)	fruit preserves	8/31/1965	72/226,841	10/10/1967	836,816	10/10/2007
HARRY AND DAVID	fresh fruits	10/14/1942	71/456,183	2/9/1943	400,009	2/9/2013
FRUIT-OF-THE-MONTH CLUB	mail order services	8/20/1979	73/228,291	6/30/1981	1,159,530	6/30/2011
FRUIT-OF-THE-MONTH CLUB	fresh fruits	9/21/1940	71/436,216	3/25/1941	386,023	3/25/2011
ALPHONSE LAVALLE	fresh grapes	10/25/1984	73/505,603	6/11/1985	1,341,314	6/11/2005
SO EASY, IT PRACTICALLY SERVES ITSELF	sliced ham	3/19/1998	75/453,447	6/22/1999	2,256,132	6/22/2009
Ruby Delicious	Fresh seedless red grapes	9/29/1982	73/392,873	11/06/1984	1,304,438	—

## RELEASE OF TRADEMARKS

THIS RELEASE OF TRADEMARKS is dated as of March 20, 2006 by GMAC Commercial Finance LLC, in its capacity as the Collateral Agent for the Secured Parties (as defined in the Trademark Security Agreement described below) (the "Collateral Agent"). All capitalized terms used but not otherwise defined herein have the meaning given to them in the Trademark Security Agreement (as defined below).

WHEREAS, Harry and David, a Delaware corporation ("Grantor"), entered into that certain Trademark Security Agreement (the "Trademark Security Agreement"), dated as of June 17, 2004 in favor of the Collateral Agent;

WHEREAS, the Trademark Security Agreement granted the Collateral Agent a security interest in, among other things, certain trademarks, tradenames, trademark registrations, service marks, trade styles, terms, designs and trademark application (the "Trademarks") including, without limitation, the Trademarks listed on Schedule A attached hereto as security for certain obligations of Grantor to the Secured Parties (the "Obligations");

WHEREAS, the Collateral Agent recorded the Trademark Security Agreement on June 24, 2004 at Reel 002879, Frame 0152 in the United States Patent and Trademark Office; and

WHEREAS, all of the Obligations have been discharged and Grantor has requested that the Collateral Agent release its security interests in the Trademarks and other Trademark Collateral.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Collateral Agent agrees as follows:


Effective upon receipt of the "Payoff Amount" described in that certain Payoff Letter by the Administrative Agent addressed to Bear Creek Corporation, a Delaware corporation, and other entities dated as of the date hereof, the Collateral Agent hereby, without representation, warranty or recourse, fully releases and terminates all security interests and liens and assigns to and reinvests in Grantor all of the Collateral Agent's right, title, interest, in each case granted by the Trademark Security Agreement, in and on the Trademarks and other Trademark Collateral.

The Collateral Agent further agrees, at the sole cost and expense of Grantor, to authorize or perform all necessary acts to affect the release and termination of its security interests and liens in the Trademarks and other Trademark Collateral, including, but not limited to the recording, filing and entering into any agreements, documents, forms or papers needed to accomplish such release and termination.

[Signature Page Follows]

IN WITNESS WHEREOF, the Collateral Agent has caused this Release of Trademarks to be duly executed as of the day and year first above written.

GMAC COMMERCIAL FINANCE LLC,  
as the Collateral Agent

By:   
Name: Daniel Maresca  
Title: Director

[Signature Page to Trademark Release of Harry and David]

**SCHEDULE A**  
**TO**  
**RELEASE OF TRADEMARKS**  
**SCHEDULE 1**



Schedule A

Mark Name	Description	Filing Date	App. No.	Reg. Date	Reg. No.	Renewal
HARVESTING A LEGEND	annual promotional theme for retail and mail order services in the field of foods, flowers, and other gifts, via the Internet and through catalogs and signage	12/22/2003	76/568,403			
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MOOSE MUNCH CALL YOUR MOM ON MAY 12...(BUT CALL US TODAY!)	candy	11/29/1994	74/604,129	9/17/1996	2,000,672	9/17/2006
HARRY AND DAVID HEARTHSIDE SOUPS	mail order services in the field of foods, flowers and other gifts	10/21/1996	75/184,829	8/26/1997	2,091,423	8/26/2007
THE LIGHT SIZE IS THE RIGHT SIZE	dried soup mixes	12/5/1995	75/028,024	6/24/1997	2,074,493	6/24/2007
HEAVENLY HEARTS SO BIG AND JUICY, YOU EAT THEM WITH A SPOON	mail order services in the field of fresh fruits	3/3/1997	75/250,893	5/12/1998	2,157,770	5/12/2008
ORIGINAL OREGON VEGGIE CLUB	candy and chocolate	11/26/2001	76/342,045	5/20/2003	2,718,029	5/20/2013
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	stuffed toy animals	5/8/2002	76/404,507	12/16/2003	2,795,776	12/16/2013
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ROYAL RIVERA PEARS SO BIG AND JUICY, YOU EAT THEM WITH A SPOON	fresh pears	12/19/1960	72/110,436	2/6/1962	727,298	2/6/2012
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OREGOLD	fresh fruits	2/18/1939	71/416,175	6/27/1939	368,755	6/27/2009
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