

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
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<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Fruit-Ices Corp.		08/18/2004	CORPORATION: NEW YORK
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Wells Enterprises, Inc.		
<b>Street Address:</b>	P.O. Box 1310, One Blue Bunny Drive		
<b>City:</b>	Le Mars		
<b>State/Country:</b>	IOWA		
<b>Postal Code:</b>	51031		
<b>Entity Type:</b>	CORPORATION: IOWA		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3003086	GOURMET FROZEN FRUIT BAR	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(515)288-1338		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	515-288-3667		
<b>Email:</b>	patatty@ipmvs.com		
<b>Correspondent Name:</b>	McKee, Voorhees & Sease, PLC		
<b>Address Line 1:</b>	801 Grand Avenue		
<b>Address Line 2:</b>	Suite 3200		
<b>Address Line 4:</b>	Des Moines, IOWA 50309-2721		
<b>ATTORNEY DOCKET NUMBER:</b>	T55158US00 - W192-666		
<b>NAME OF SUBMITTER:</b>	Christine Lebron-Dykeman		
<b>Signature:</b>	/Christine Lebron-Dykeman/		
<b>Date:</b>	04/08/2011		

CH \$40.00 3003086

**Total Attachments: 7**

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**DECLARATION OF DAVID E. SMETTER**  
in support of United States Trademark Registration No. 3,003,086

I, David E. Smetter, Vice President Corp Marketing & Communications of Wells Enterprises, Inc. hereby affirm that I am over 21 years of age and I am competent to make this declaration. In my position, I have personal knowledge of the facts stated hereby. I hereby declare and state:

1. Wells' Dairy, Inc., the predecessor in interest to Wells Enterprises, Inc., entered into a contract on August 18, 2004 for the purchase of all trademarks owned by the company Fruit Ices Corp., a New York corporation with principal place of business at 1193 McDonald Avenue, Brooklyn, New York 11230 together with the good will of the business pertaining to all of fruit ices, marks and the registrations thereof. (Attached hereto as Exhibit A is a true and copy of the Assignment from Fruit-Ices Corp. to Wells' Dairy, Inc.)

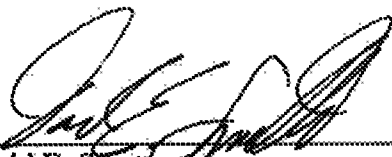
2. The parties intended that the then-pending trademark application for the mark GOURMET FROZEN FRUIT BAR, Application Serial Number 78/444,818 which was initially filed on July 1, 2004 to be included in this assignment as evidenced by the fact that Fruit Ices' attorney of record, J. Alison Strickland, sent to Wells' Dairy, Inc. the original Certificate of Registration for said mark. (See attached hereto as Exhibit B a true and correct copy of the correspondence from Strickland to Wells' Dairy, Inc.) Unfortunately, however, this trademark was inadvertently left off of the Assignment.

3. Subsequent to the assignment, Wells began selling products under the GOURMET FROZEN FRUIT BAR mark and has continued usage of this mark in commerce from the date of transfer up until today (See attached hereto as Exhibit C a true and correct copy of product packaging for the GOURMET FROZEN FRUIT BAR product showing manufacture by Wells').

4. Fruit Ices Corp. is no longer in existence and, thus, cannot sign a *nunc pro tunc* assignment for said mark.

Pursuant to 20 USC Section 1746, I declare under penalty of perjury that the foregoing is true and correct.

3/17/11  
Date

  
\_\_\_\_\_  
David E. Smetter

## ASSIGNMENT

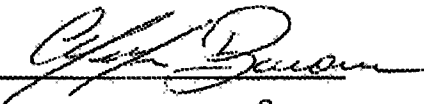
WHEREAS, FRUIT-ICES CORP., a New York corporation with a principal place of business of 1193 McDonald Avenue, Brooklyn, New York 11230, is the owner of the trademark registrations set forth below:

<u>MARK</u>	<u>REG. NO.</u>	<u>REG. DATE</u>
BANANA BITES	2,074,679	June 24, 1997
FROZFRUIT	1,331,109	April 16, 1985
GIVE PEACH A CHANCE	2,545,960	March 12, 2002
SMOOTHIE.YUM	2,486,241	September 4, 2001
YUMTONIC	2,508,078	November 13, 2001

WHEREAS, WELLS' DAIRY, INC., an Iowa corporation, with a principal place of business at P.O. Box 1310, One Blue Bunny Drive, Le Mars, Iowa 51031, is desirous of acquiring the entire right, title and interest in and to said marks, together with the goodwill of the business pertaining to said marks;

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, said FRUIT-ICES CORP. does hereby assign unto WELLS' DAIRY, INC. all right, title and interest which FRUIT-ICES CORP. has heretofore enjoyed pertaining to said marks, together with the goodwill of the business pertaining to said marks and the registrations thereof Nos. 2,074,679; 1,331,109; 2,545,960; 2,486,241; and 2,508,078, the same to be held and enjoyed by WELLS' DAIRY, INC., its successors and assigns, together with the right to sue for and collect for all claims for damages by reason of past infringement of said marks and the registrations thereof.

FRUIT-ICES CORP.

By   
Name: MICHAEL BARODE  
Title PRESIDENT

STATE OF NEW YORK )  
COUNTY OF RICHMOND ) ss

On this 18 day of AUGUST, 2004, before me, the undersigned, a Notary Public in and for the state, personally appeared MICHAEL BARONE to me personally known, who being by me duly sworn, did say that he is the PRESIDENT of FRUIT-ICBS CORP.; that said above and foregoing instrument was signed on behalf of said corporation by authority of its Board of Directors and that the said PRESIDENT, as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

Marlene D Mead  
Notary Public in and for the  
State of NEW YORK

Commission Expires 10/24/06

MARLENE D. MEAD  
Notary Public, State of New York  
No. 43-4973817  
Qualified in Richmond County  
Commission Expires October 29, 2006

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

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DAVID WELLS III  
STEPHEN BIGGER  
ROGER L. ZISSU  
MARIE V. DRISCOLL  
RICHARD Z. LEHY  
DAVID W. ENRICH  
SUSAN UPTON DOUGLASS  
JANET L. HOFFMAN  
PETER J. SILVERMAN  
LAWRENCE ELLI ANGLIZZI  
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LISA PEARSON  
MARK G. ENDELMANN  
NADINE H. JACOBSON  
ANDREW M. FRESBECK  
GEORGES MARICHEVANSKY  
CRAIG S. MENDE  
J. ALLISON STRICKLAND  
JOHN P. MARGIOTTA  
MARIA A. SCUNGIO

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JUSTIN DEABLER  
CHARLES T.J. WEIGELL III  
ALLISON SINGER  
MARIYAN F. KELLY

OCT 14 2005

→ CLAF B.

VIA MAIL

Mr. Thomas J. Ferree  
Vice President, Chief Financial Officer  
Wells Dairy, Inc.  
Le Mars, Iowa 51031

Re: Fruit-Ices Corp. -- U.S. Trademark Registration No. 3,003,086 for  
**GOURMET FROZEN FRUIT BAR** (maturing from Application  
Serial No. 78/444,818) in Class 30 (Our Ref: FZF USA TA-  
04/21531 JAS)

Dear Thomas:

We are pleased to enclose the original Certificate of Registration of the above mark. Also enclosed is a memorandum containing some information on U.S. trademark registrations that you may find helpful, including use of the registration notice, maintenance requirements, title changes and recordation with U.S. Customs.

While we have placed this mark on our records for maintenance, we understand that you have decided to transfer the trademark matters that we handled by your predecessor in interest, Fruit-Ices, to Bruce McKee at the McKee, Voorhees & Sease Law Firm. Please confirm that we should transfer this file (as well as the files for the other trademarks that you acquired from Fruit-Ices) to Mr. McKee.

Very truly yours,

  
J. Allison Strickland

JAS/aw  
Enclosures  
cc: Ms. Annie Meier

# The United States of America



## CERTIFICATE OF REGISTRATION SUPPLEMENTAL REGISTER

*The Mark shown in this certificate has been registered in the United States Patent and Trademark Office to the named registrant.*

*The records of the United States Patent and Trademark Office show that an application for registration of the Mark shown in this Certificate was filed in the Office; that the application was examined and determined to be in compliance with the requirements of the law and with the regulations prescribed by the Director of the United States Patent and Trademark Office; and that the Applicant is entitled to registration of the Mark under the Trademark Act of 1946, as Amended.*

*A copy of the Mark and pertinent data from the application are part of this certificate.*

*This registration shall remain in force for TEN (10) years, unless terminated earlier as provided by law, and subject to compliance with the provisions of Section 8 of the Trademark Act of 1946, as Amended.*



A handwritten signature in black ink, reading "Jon W. I. Duchas".

Director of the United States Patent and Trademark Office

**TRADEMARK**

**REEL: 004518 FRAME: 0007**

Int. Cl.: 30

Prior U.S. Cl.: 46

Reg. No. 3,003,086

United States Patent and Trademark Office

Registered Sep. 27, 2005

TRADEMARK  
SUPPLEMENTAL REGISTER

GOURMET FROZEN  
FRUIT BAR

FRUIT-ICES CORP. (NEW YORK CORPORATION)

1193 MCDONALD AVENUE

BROOKLYN, NY 11230

FOR: FROZEN CONFECTIONS, IN CLASS 30 (U.S. CL. 46).

FIRST USE 0-0-1979; IN COMMERCE 0-0-1979.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "FROZEN FRUIT BAR", APART FROM THE MARK AS SHOWN.

SER. NO. 78-444,818, FILED P.R. 7-1-2004; AM. S.R. 8-5-2005.

GIANCARLO CASTRO, EXAMINING ATTORNEY

TRADEMARK

REEL: 004518 FRAME: 0008



**BLUE BUNNY**  
PRODUCTS

# KOOL FRUIT

CONTEINEUR EN POLYESTER  
 BOUTONNÉ À LA MANÈRE

CONTIENE FRUITS RECENTEMENT GELÉS  
 CONTIENE FRUITS RECENTEMENT GELÉS

Blue Bunny est une marque  
 déposée de Blue Bunny - Animal Nutritionals

## Chunky Pineapple

(Moyenne d'anneaux)

4 FL OZ (118 mL) 118 mL (4 oz liq.)



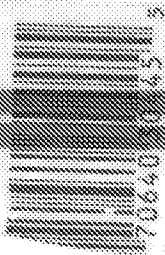
### Nutrition Facts Valeur nutritive

Serving Size 1 Bar (118g)  
 Portion 1 bar (118g)  
 Calories 100  
 Fat Cal. / Cal. from Fat 0 / 0  
 Percent Daily Values (DV) are based on a diet of  
 100% real fruit. \* Percentages do not include  
 DVs for the base of an original 2,000 calories.

Amount/Serving / Quantité par portion	% DV / %*	Amount/Serving / Quantité par portion	% DV / %*
Total Fat / Total gras 1 g	0 %	Total Carb. / Sucrilles totaux 30 g	0 %
Cal. Fat / Gras saturés 0 g	0 %	Sugars / Sucres 20 g	0 %
Total Fat / Gras trans 0 g	0 %	Protein / Protéines 0 g	0 %
Cholest. 0 mg	0 %	Sodium 10 mg	10 %
Vitamin / Vitamine A 0 % • Vitamin / Vitamine C 0 % • Calcium 0 % • Iron / Fer 0 %			

BLUE BUNNY® is committed to providing the highest quality products possible. We welcome your comments and suggestions. Call us toll-free weekdays 9 a.m. to 5 p.m. EST at 1-800-331-0838, write to: Consumer Affairs, BLUE BUNNY P.O. Box 1310, Le Mars, IA 51031 - U.S.A., or visit our website at bluebunny.com. Please provide production codes printed on side of container.

BLUE BUNNY® a le plaisir de fournir des produits de la plus haute qualité possible. Nous apprécions vos questions et commentaires. Téléphonnez-nous gratuitement un semaine de 9 h à 17 h HNC au 1-800-331-0838 ou écrivez à : Consommateur Affaire : BLUE BUNNY P.O. Box 1310, Le Mars, IA 51031 - USA. Vous pouvez également visiter notre site Web à bluebunny.com. Veuillez fournir les codes de production imprimés sur le côté du contenant.



**INGREDIENTS:** Water, Pineapple Chunks, High Fructose Corn Syrup, Sugar, Pineapple Concentrate and Natural Pineapple Flavor, Citric Acid, Natural Gum, Guar Gum and Annatto for Color. **INGREDIENTS:** Eau, Morceaux d'ananas, Sirop de sucre, Sucre, Concentré de jus d'ananas, Jus d'ananas naturel, Acide citrique, Extrait naturel de jus d'ananas, Gomme de guar, Gomme de guar et Annatto pour la couleur.

NET WT. / PRODUCT PAK - WELLS GERRY INC. • P.O. BOX 1310 • LE MARSH, IA 51031 • U.S.A.  
 Poids et Contenu du Conteneur / Numéro de l'unité coté imprimé sur le contenant  
 Visit our website at / Visitez notre site Web à www.bluebunny.com