

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Amended and Restated Trademark Security Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Back Yard Burgers, Inc.		01/30/2013	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Harbert Mezzanine Partners II, L.P. as Collateral Agent		
Street Address:	2100 Third Avenue North		
Internal Address:	Suite 600		
City:	Birmingham		
State/Country:	ALABAMA		
Postal Code:	35203-3371		
Entity Type:	LIMITED PARTNERSHIP: DELAWARE		
PROPERTY NUMBERS Total: 6			
Property Type	Number	Word Mark	
Registration Number:	3872437	GRILLSONTHEGO BACKYARD CATERING	
Registration Number:	3831291	GRILLS ON THE GO	
Registration Number:	2809079	BACK YARD BURGERS	
Registration Number:	1679739		
Registration Number:	1679702	BACK YARD BURGERS	
Registration Number:	2024782	MIZ GRAZI'S	
CORRESPONDENCE DATA			
Fax Number:	9192868199		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	9192868118		
Email:	pto_tmconfirmation@mvalaw.com		
Correspondent Name:	Moore & Van Allen PLLC		
Address Line 1:	430 Davis Drive		
Address Line 2:	Suite 500		

OP \$165.00 3872437

Address Line 4: Morrisville, NORTH CAROLINA 27560

ATTORNEY DOCKET NUMBER: 020160

NAME OF SUBMITTER: John E. Slaughter

Signature: /John E. Slaughter/

Date: 02/01/2013

Total Attachments: 10

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AMENDED AND RESTATED TRADEMARK SECURITY AGREEMENT

This **AMENDED AND RESTATED TRADEMARK SECURITY AGREEMENT** (this "Agreement") is made this 30th day of January, 2013, by and between **HARBERT MEZZANINE PARTNERS II, L.P.**, a Delaware limited partnership having an office at 618 Church Street, Suite 500, Nashville, Tennessee 37219 (hereinafter referred to, together with its successors and assigns, as "Collateral Agent") and **BACK YARD BURGERS, INC.**, a Delaware corporation (the "Company").

Recitals:

The Company desires to obtain loans and other financial accommodations from Lenders pursuant to that certain Amended and Restated Loan and Security Agreement dated the date hereof (as from time to time amended, restated, supplemented or otherwise modified, the "Loan Agreement") by and among the Company and Lenders.

Lenders are willing to purchase notes and make other financial accommodations to the Company from time to time pursuant to the terms of the Loan Agreement, provided that the Company executes this Agreement in order to amend and restate that certain Trademark Security Agreement dated as of November 5, 2007 by and among the Company, certain other grantors party thereto, and the Collateral Agent.

NOW, THEREFORE, for Ten Dollars (\$10.00) in hand paid and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company hereby agrees with Collateral Agent as follows:

1. Each capitalized term used herein (including those used in the Recitals hereto), unless otherwise defined, shall have the meaning ascribed to such term in the Loan Agreement. As used herein, the term "Full Payment" shall mean full and final payment of the Obligations and the term "UCC" shall mean the Uniform Commercial Code as in effect from time to time in the State of Delaware.

2. To secure the prompt payment and performance of all of the Obligations, the Company hereby grants, assigns and pledges to Collateral Agent for the benefit of the Lenders a continuing security interest in and to all of the following property of the Company, whether now owned or existing or hereafter created or acquired (collectively, the "Trademark Collateral"):

(a) all trademarks, trade names and trademark applications, including, without limitation, the trademarks and applications listed on Exhibit A attached hereto and made a part hereof (as the same may be amended from time to time), and (i) all renewals thereof, (ii) all income, royalties, damages and payments now or hereafter due or payable with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (iii) the right to sue for past, present and future infringements thereof, and (iv) all rights corresponding thereto throughout the world (all of the foregoing trademarks, trademark registrations, trade names and applications, together with the items described in clauses (i)-(iv), are hereinafter collectively referred to as the "Trademarks");

(b) the goodwill of the Company's business connected with and symbolized by the Trademarks; and

(c) all proceeds of the foregoing.

3. The Company represents and warrants to Collateral Agent that, as of the date hereof:

(a) Each of the Trademarks is subsisting and has not been adjudged invalid or unenforceable;

(b) Upon filing of this Agreement in the United States Patent and Trademark Office, this Agreement will create a legal, valid and perfected Lien upon and security interest in the Trademark Collateral that is registered in that office and that is listed on Exhibit A attached hereto, enforceable against the Company and all third Persons in accordance with its terms;

(c) No material claim has been made that the use of any of the Trademarks does or may violate the rights of any Person;

(d) The Company has the unqualified right to enter into this Agreement and perform its terms;

(e) Each of the Trademarks is valid and enforceable, except where the lack of validity or enforceability could not reasonably be likely to have a Material Adverse Effect; and

(f) The Company is the sole and exclusive owner of the entire right, title and interest in and to all of the Trademark Collateral, free and clear of any Liens, charges and encumbrances (except licenses permitted pursuant to paragraph 6 below), including, without limitation, pledges, assignments, licenses, registered user agreements and covenants by the Company not to sue third Persons, except Permitted Liens.

4. The Company covenants and agrees with Collateral Agent that, except for Trademarks abandoned by the Company in the ordinary course of business (provided such abandonment could not be reasonably expected to have a Material Adverse Effect), the Company has used and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the registered Trademarks, including, without limitation, filing an affidavit of use with the United States Patent and Trademark Office and any applicable foreign filing office for each registered Trademark as required by applicable law to maintain the registration thereof without loss of protection therefor.

5. The Company hereby grants to Collateral Agent, and its employees and agents, the visitation, audit, and inspection rights with respect to the Company and its Collateral as set forth in the Loan Agreement.

6. Until Full Payment of the Obligations, the Company shall not enter into any license agreement relating to any of the Trademarks with any Person except non-exclusive licenses to franchisees, customers, vendors, suppliers, agents or other service providers of the Company in the regular and ordinary course of the Company's business as presently conducted and for reasonable and customary compensation, and shall not become a party to any agreement with any Person that is inconsistent with the Company's obligations under this Agreement.

7. If, before Full Payment of all of the Obligations, the Company shall obtain rights to any new trademarks, or become entitled to the benefit of any trademark application or trademark or any renewal of any Trademark, the provisions of paragraph 2 hereof shall automatically apply thereto, and the Company shall give to the Collateral Agent prompt notice thereof in writing.

8. The Company irrevocably authorizes and empowers Collateral Agent to modify this Agreement by amending Exhibit A to include any future trademarks and trademark applications under paragraph 2 or paragraph 7 hereof.

9. At any time that an Event of Default exists, Collateral Agent shall have, in addition to all other rights and remedies given it by this Agreement and the other Loan Documents, all rights and remedies of a secured party under the UCC and all other rights and remedies under any other applicable law. Without limiting the generality of the foregoing, Collateral Agent may immediately, without demand of performance and without notice (except as described in the next sentence, if required by applicable law) or demand whatsoever to the Company, each of which the Company hereby expressly waives, collect directly any payments due the Company in respect of the Trademark Collateral, or sell at public or private sale or otherwise realize upon all or from time to time any of the Trademark Collateral. The Company hereby agrees that ten (10) days' notice to the Company of any public or private sale or other disposition of any of the Trademark Collateral shall be reasonable notice. At any such sale or disposition, Collateral Agent may, to the extent permitted by applicable law, purchase the whole or any part of the Trademark Collateral sold, free from any right of redemption on the part of the Company, which right the Company hereby waives and releases. After deducting from the proceeds of such sale or other disposition of the Trademark Collateral all reasonable costs and expenses incurred by Collateral Agent in enforcing its rights hereunder (including, without limitation, all reasonable attorneys' fees), Collateral Agent shall apply the remainder of such proceeds to the payment of the Obligations in such order or manner as may be authorized or required by the Loan Agreement. Any remainder of the proceeds after Full Payment of all of the Obligations shall be paid over to the Company. If any deficiency shall arise, the Company shall remain liable to Collateral Agent therefor.

10. The Company hereby makes, constitutes and appoints Collateral Agent and any officer or agent of Collateral Agent as Collateral Agent or the Required Lenders may select, as the Company's true and lawful attorney-in-fact, with full power to do any or all of the following if an Event of Default shall exist: to endorse the Company's name on all applications, documents, papers and instruments necessary for Collateral Agent to continue the registration of or to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to any other Person, or to assign, pledge, convey or otherwise transfer title in or dispose of any Trademark Collateral to any other Person. The Company hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney, being coupled with an interest, shall be irrevocable until Full Payment of all of the Obligations.

11. Any and all reasonable fees, costs and expenses, of whatever kind or nature (including, without limitation, reasonable attorneys' fees and legal expenses) incurred by Collateral Agent in connection with the preparation of this Agreement and any other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including, without limitation, all taxes in connection therewith) with the United States Patent and Trademark Office or in any other public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, Liens or otherwise in protecting, maintaining, or preserving the Trademark Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademark Collateral shall be borne and paid by the Company (it being the intent of the Company and Collateral Agent that the Company shall be responsible for the payment of all sums, fees, costs and expenses, including, without limitation, all renewal fees with respect to the Trademarks) or, if paid by Collateral Agent in its sole discretion, shall be reimbursed by the Company on demand by Collateral Agent and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the rate of interest set forth in the Loan Agreement.

12. The Company shall use its commercially reasonable efforts to detect any infringers of the Trademarks and shall notify Collateral Agent in writing of material infringements detected. The Company shall have the duty to use its commercially reasonable efforts to prosecute diligently any trademark application for a material Trademark pending as of the date of this Agreement or thereafter until Full Payment of the Obligations, to make federal application on registrable but unregistered Trademarks (subject to the Company's reasonable discretion in the ordinary course of business or, during the existence of an Event of Default, promptly upon Collateral Agent's request), to file and prosecute opposition and cancellation proceedings, and to do any and all acts which are deemed necessary or desirable in the Company's commercially reasonable discretion (or by Collateral Agent, during the continuance of an Event of Default) to preserve and maintain all rights in any material Trademarks. Any expenses incurred in connection with such applications or proceedings shall be borne by the Company. The Company shall not abandon any right to file a trademark application, or any pending trademark application or Trademark without the prior written consent of Collateral Agent, unless such Company has determined that such trademark application or trademark is no longer necessary or material to the conduct of its business.

~~13. Notwithstanding anything to the contrary contained in paragraph 12 hereof, at any time that an Event of Default exists, Collateral Agent shall have the right, but shall in no way be obligated, to bring suit instead in its own name to enforce the Trademarks and any license hereunder, or to defend any suit or counterclaim in its own name to protect the Trademarks or any license hereunder, in either of which events the Company shall at the request of Collateral Agent do any and all lawful acts (including bringing suit) and execute any and all proper documents required by Collateral Agent to aid such enforcement or defense, and the Company shall promptly, upon demand, reimburse and indemnify Collateral Agent for all reasonable costs and expenses incurred in the exercise of Collateral Agent's rights under this paragraph 13.~~

14. If the Company fails to comply with any of its obligations hereunder and at the time of such failure or as a result thereof an Event of Default exists, then to the extent permitted by applicable law, Collateral Agent may discharge such obligations in the Company's name or in Collateral Agent's name, in Collateral Agent's sole discretion, but at the Company's expense, and the Company agrees to reimburse Collateral Agent in full for all expenses, including, without limitation, reasonable attorneys' fees, incurred by Collateral Agent in prosecuting, defending or maintaining the Trademarks or Collateral Agent's interest therein pursuant to this Agreement.

15. No course of dealing between the Company and Collateral Agent, nor any failure to exercise, nor any delay in exercising, on the part of Collateral Agent, any right, power or privilege hereunder or under any of the other Loan Documents 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 future exercise thereof or the exercise of any other right, power or privilege.

16. All of Collateral Agent's rights and remedies with respect to the Trademark Collateral, whether established hereby or by any of the other Loan Documents, or by any other agreements or by applicable law shall be cumulative and may be exercised singularly or concurrently.

17. The provisions of this Agreement are severable, and if any clause or provision 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.

18. This Agreement, together with the other Loan Documents, constitutes and expresses the entire understanding of the parties hereto with respect to the subject matter hereof, and supersedes all prior agreements and understandings, inducements or conditions, whether express or implied, oral or written. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 8 hereof.

19. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the successors and assigns of Collateral Agent and Lenders and upon the successors and permitted assigns of the Company. The Company shall not assign its rights or delegate its duties hereunder without the prior written consent of Collateral Agent.

20. The Company hereby waives notice of Collateral Agent's acceptance hereof.

21. This Agreement shall be governed by and construed in accordance with the internal laws of the State of New York.

22. To the fullest extent permitted by applicable law, the Company and Collateral Agent each waives the right to trial by jury in any action, suit, proceeding or counterclaim of any kind arising out of or related to this Agreement or the Trademark Collateral.

[Remainder of page intentionally left blank;

signatures commence on following page]

WITNESS the execution hereof under seal as of the day and year first above written.

COMPANY:

BACK YARD BURGERS, INC.

By: [Signature]
Name: David M. Russell
Title: CEO/President/Secretary

[Signatures continue on following page]

Amended and Restated Trademark Security

TRADEMARK
REEL: 004954 FRAME: 0125

STATE OF TENNESSEE §

COUNTY OF DAVIDSON §

BEFORE ME, the undersigned authority, on this day personally appeared David McDougall
CEO/President/Secretary of Back Yard Burgers, Inc., a Delaware corporation, to me known to be the person
whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the
same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act
and deed of said corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 30th day of January, 2013.

Mary C. Wood
Notary Public

My Commission Expires:

11/4/2013

[NOTARIAL SEAL]



Amended and Restated Trademark Security

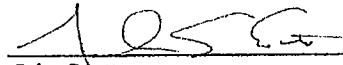
Accepted on the date first set forth above:

COLLATERAL AGENT:

HARBERT MEZZANINE PARTNERS II, L.P.

By: Harbert Mezzanine Partners II GP, LLC,
its General Manager

By: Harbert Management Corporation,
its General Partner

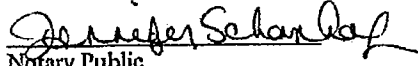
By: 
Name: John Scott
Title: Vice President and Managing Director

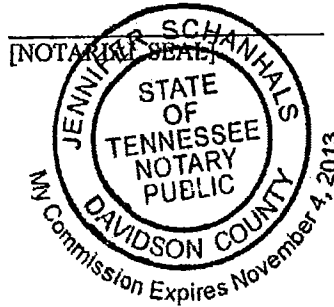
Amended and Restated Trademark Security

STATE OF TENNESSEE)
)
COUNTY OF Davidson)

BEFORE ME, the undersigned authority, on this day personally appeared John Scott of Harbert Management Corporation, a Delaware corporation, to me known to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed the same for the purposes and consideration therein expressed, in the capacity therein stated, and as the act and deed of said banking corporation.

GIVEN UNDER MY HAND AND SEAL OF OFFICE on this 28 day of January, 2013.


Notary Public
My Commission Expires:



Amended and Restated Trademark Security

TRADEMARK
REEL: 004954 FRAME: 0128

EXHIBIT A

**Back Yard Burgers, Inc.
(Delaware Corporation)**

U.S. Trademarks

Registered Marks

Mark	Reg. No.	Reg. Date
GRILLSONTHEGO BACKYARD CATERING and Design	3872437	11/09/10
GRILLS ON THE GO	3831291	08/10/10
BACK YARD BURGERS and Design	2809079	01/27/04
Design only	1679739	03/17/92
BACK YARD BURGERS	1679702	03/17/92
MIZ GRAZI'S	2024782	12/24/96

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