

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM371028

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	Patent and Trademark Security Agreement		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Frozen Specialties, Inc.		12/21/2015	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Wells Fargo Bank, National Association		
Street Address:	2450 Colorado Avenue, Suite 3000 W		
City:	Santa Monica		
State/Country:	CALIFORNIA		
Postal Code:	90404		
Entity Type:	National Association: UNITED STATES		
PROPERTY NUMBERS Total: 18			
Property Type	Number	Word Mark	
Registration Number:	3648066	FSI	
Registration Number:	2691744	DELIBITES	
Registration Number:	2821811	DELI BITES	
Registration Number:	2755028	SHRIMP BITES	
Registration Number:	2745345	RISING SLICES	
Registration Number:	2696829	BURGER BITES	
Registration Number:	2425543	MORNING BITES	
Registration Number:	2116332	FSI	
Registration Number:	1903731	PIZZA FINGERS	
Registration Number:	1870710	CRAB BITES	
Registration Number:	1720533	EGG ROLL BITES	
Registration Number:	1593255	PIZZA BITES	
Registration Number:	1261356	PIZZA BITES	
Registration Number:	1097642	FOX DE LUXE	
Registration Number:	0965688	MR. P'S	
Registration Number:	0676421	GW	
Registration Number:	4246594	SIMPLY FOR YOU	
Registration Number:	4522466	MR. P'S	

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CORRESPONDENCE DATA**Fax Number:** 2027393001*Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.***Phone:** 202-739-3000**Email:** jennifer.evans@morganlewis.com**Correspondent Name:** Jennifer C. Evans**Address Line 1:** 1111 Pennsylvania Avenue, NW**Address Line 4:** Washington, D.C. 20004**ATTORNEY DOCKET NUMBER:** 058438-0584**NAME OF SUBMITTER:** Jennifer C. Evans**SIGNATURE:** /jce/**DATE SIGNED:** 01/28/2016**Total Attachments: 10**

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PATENT AND TRADEMARK SECURITY AGREEMENT

This Patent and Trademark Security Agreement (the "Agreement"), dated as of December 21, 2015, is made by and between Frozen Specialties, Inc., a Delaware corporation (the "Company"), having a business location at the address set forth below next to its signature, and Wells Fargo Bank, National Association (together with its successors and assigns, "Wells Fargo"), having a business location at the address set forth below next to its signature.

Recitals

A. Company, certain Affiliates of the Company, and Wells Fargo are parties to a Credit and Security Agreement dated as of the date hereof (as amended, supplemented or restated from time to time, the "Credit Agreement"), setting forth the terms on which Wells Fargo may now or hereafter extend credit to or for the account of Company and Company's Affiliates.

B. As a condition to extending credit to or for the account of Company, Wells Fargo has required the execution and delivery of this Agreement by Company.

ACCORDINGLY, in consideration of the mutual covenants contained in the Loan Documents and herein, the parties hereby agree as follows:

1. Definitions. All terms defined in the Recitals hereto or in the Credit Agreement that are not otherwise defined herein shall have the meanings given to them in the Credit Agreement. In addition, the following terms have the meanings set forth below:

"Patents" means all of Company's right, title and interest in and to patents or applications for patents, fees or royalties with respect to each, and including without limitation the right to sue for past infringement and damages therefor, all as presently existing or hereafter arising or acquired, including without limitation the patents listed on Exhibit A.

"Security Interest" has the meaning given in Section 2.

"Trademarks" means all of Company's right, title and interest in and to:
(i) trademarks, service marks, collective membership marks, registrations and applications for registration for each (but not including any trademark applications filed on an "intent-to-use" basis, but only to the extent that the grant of a security interest therein would impair the validity or enforceability of such intent-to-use trademark application under applicable federal law), and the respective goodwill associated with each, (ii) fees or royalties with respect to each, and (iii) the right to sue for past, present and future infringement, dilution and damages therefor, all as presently existing or hereafter arising or acquired, including, without limitation, the marks listed on Exhibit B.

2. Security Interest. Company hereby irrevocably pledges and assigns to, and grants Wells Fargo (for itself as Lender and for each Bank Product Provider), a security interest

(the “Security Interest”) with power of sale to the extent permitted by this Agreement, the Credit Agreement, or law, in the Patents and in the Trademarks to secure payment of the Obligations. As set forth in the Credit Agreement, the Security Interest is coupled with a security interest in the Collateral. This Agreement grants only the Security Interest herein described, is not intended to and does not affect any present transfer of title of any trademark registration or application and makes no assignment and grants no right to assign or perform any other action with respect to any intent to use trademark application, unless such action is permitted under 15 U.S.C. §1060.

3. Representations, Warranties and Agreements. Company represents, warrants, and agrees as follows:

(a) **Patents.** Exhibit A accurately lists all Patents owned by Company as of the date hereof, and accurately reflects the existence and status of applications and letters patent pertaining to the Patents as of the date hereof. If after the date hereof, Company owns, controls or has a right to have assigned to it any Patents not listed on Exhibit A, or if Exhibit A ceases to accurately reflect the existence and status of applications and letters patent pertaining to the Patents, then Company shall within 60 days provide written notice to Wells Fargo with a replacement Exhibit A, which upon acceptance by Wells Fargo shall become part of this Agreement.

(b) **Trademarks.** Exhibit B accurately lists all registrations (and applications for registration of) Trademarks owned by Company as of the date hereof and accurately reflects the existence and status of Trademarks. If after the date hereof, Company owns or controls any registrations (or applications for registration of) Trademarks not listed on Exhibit B (other than common law marks which are not material to Company’s or any Affiliate’s business(es)), or if Exhibit B ceases to accurately reflect the existence and status of applications and registrations pertaining to the Trademarks, then Company shall within 60 days provide written notice to Wells Fargo with a replacement Exhibit B, which upon acceptance by Wells Fargo shall become part of this Agreement.

(c) **Affiliates.** As of the date hereof, no Affiliate owns, controls, or has a right to have assigned to it any items that would, if such item were owned by Company, constitute Patents or Trademarks. If after the date hereof any Affiliate owns, controls, or has a right to have assigned to it any such items, then Company shall promptly either: (i) cause such Affiliate to assign all of its rights in such item(s) to Company; or (ii) notify Wells Fargo of such item(s) and cause such Affiliate to execute and deliver to Wells Fargo a patent and trademark security agreement substantially in the form of this Agreement.

(d) **Title.** Company owns good title to each Patent and each Trademark listed on Exhibits A and B, free and clear of all Liens except Permitted Liens. Company (i) will own, at the time Company acquires any rights in Patents or Trademarks hereafter arising, good title to each such Patent or Trademark free and clear of all Liens except Permitted Liens, and (ii) will keep all Patents and Trademarks free and clear of all Liens except Permitted Liens.

(e) **No Sale.** Except as permitted in the Credit Agreement, Company will not assign, transfer, encumber or otherwise dispose of the Patents or Trademarks, or any interest therein, without Wells Fargo's prior written consent.

(f) **Protection of Patents and Trademarks.** Company will at its own expense protect, defend and maintain the Patents and the Trademarks to the extent required under the Credit Agreement, including, but not limited to, where commercially reasonable, filing all applications to obtain letters patent or trademark registrations and all affidavits, maintenance fees, annuities, and renewals possible with respect to letters patent, trademark registrations and applications therefor. Company covenants that it will not abandon nor fail to pay any maintenance fee or annuity due and payable on any Patent or Trademark that is necessary in the conduct of its business, nor fail to file any required affidavit or renewal in support thereof, without first providing Wells Fargo: (i) sufficient written notice, of at least 30 days, to allow Wells Fargo to timely pay any such maintenance fees or annuities which may become due on any Patents or Trademarks, or to file any affidavit or renewal with respect thereto, and (ii) a separate written power of attorney or other authorization to pay such maintenance fees or annuities, or to file such affidavit or renewal, should such be necessary or desirable.

(g) **Wells Fargo's Right to Take Action.** If Company fails to perform or observe any of its covenants or agreements set forth in this Section 3, and if such failure continues for a period of ten (10) calendar days after Wells Fargo gives Company written notice thereof (or, in the case of the agreements contained in subsection (h), immediately upon the occurrence of such failure, without notice or lapse of time), or if Company notifies Wells Fargo that it intends to abandon a Patent or Trademark, Wells Fargo may (but need not) perform or observe such covenant or agreement or take steps to prevent such intended abandonment on behalf and in the name, place and stead of Company (or, at Wells Fargo's option, in Wells Fargo's own name) and may (but need not) take any and all other actions which Wells Fargo may reasonably deem necessary to cure or correct such failure or prevent such intended abandonment.

(h) **Costs and Expenses.** Except to the extent that the effect of such payment would be to render any loan or forbearance of money usurious or otherwise illegal under any applicable law, Company shall pay Wells Fargo on demand the amount of all moneys expended and all costs and expenses (including reasonable attorneys' fees and disbursements) incurred by Wells Fargo in connection with or as a result of Wells Fargo's taking action under subsection (i) or exercising its rights under Section 6, together with interest thereon from the date expended or incurred by Wells Fargo at the Default Rate.

(i) **Power of Attorney.** To facilitate Wells Fargo's taking action under subsection (i) and exercising its rights under Section 6, Company hereby irrevocably appoints (which appointment is coupled with an interest) Wells Fargo, or its delegate, as the attorney-in-fact of Company with the right (but not the duty) from time to time to create, prepare, complete, execute, deliver, endorse or file, in the name and on behalf of Company, any and all instruments, documents, applications, financing statements, and

other agreements and writings required to be obtained, executed, delivered or endorsed by Company under this Section 3, or, necessary for Wells Fargo, upon the occurrence and during the continuance of an Event of Default, to enforce or use the Patents or Trademarks or to grant or issue any exclusive or non-exclusive license under the Patents or Trademarks to any third party, or to sell, assign, transfer, pledge, encumber or otherwise transfer title in or dispose of the Patents or Trademarks to any third party. Company hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. The power of attorney granted herein shall terminate upon the termination of the Credit Agreement as provided therein and the payment and performance of all Obligations.

4. Company's Use of the Patents and Trademarks. Company shall be permitted to control and manage the Patents and Trademarks, including the right to exclude others from making, using or selling items covered by the Patents and Trademarks and any licenses thereunder, in the same manner and with the same effect as if this Agreement had not been entered into, so long as no Event of Default occurs and remains uncured.

5. Events of Default. Each of the following occurrences shall constitute an event of default under this Agreement (herein called "Event of Default"): (a) an Event of Default, as defined in the Credit Agreement, shall occur; or (b) Company shall fail promptly to observe or perform any covenant or agreement herein binding on it; or (c) any of the representations or warranties contained in Section 3 shall prove to have been incorrect in any material respect when made.

6. Remedies. Upon the occurrence and during the continuance of an Event of Default and at any time thereafter, Wells Fargo may, at its option, take any or all of the following actions:

(a) Wells Fargo may exercise any or all remedies available under the Credit Agreement.

(b) Wells Fargo may sell, assign, transfer, pledge, encumber or otherwise dispose of the Patents and Trademarks.

(c) Wells Fargo may enforce the Patents and Trademarks and any licenses thereunder, and if Wells Fargo shall commence any suit for such enforcement, Company shall, at the request of Wells Fargo, do any and all lawful acts and execute any and all proper documents required by Wells Fargo in aid of such enforcement.

7. Miscellaneous. This Agreement can be waived, modified, amended, terminated or discharged, and the Security Interest can be released, only explicitly in a writing signed by Wells Fargo. A waiver signed by Wells Fargo shall be effective only in the specific instance and for the specific purpose given. Mere delay or failure to act shall not preclude the exercise or enforcement of any of Wells Fargo's rights or remedies. All rights and remedies of Wells Fargo shall be cumulative and may be exercised singularly or concurrently, at Wells Fargo's option, and

the exercise or enforcement of any one such right or remedy shall neither be a condition to nor bar the exercise or enforcement of any other. All notices to be given to Company or Wells Fargo under this Agreement shall be given in the manner and with the effect provided in the Credit Agreement. Wells Fargo shall not be obligated to preserve any rights Company may have against prior parties, to realize on the Patents and Trademarks at all or in any particular manner or order, or to apply any cash proceeds of Patents and Trademarks in any particular order of application. This Agreement shall be binding upon and inure to the benefit of Company and Wells Fargo and their respective participants, successors and assigns and shall take effect when signed by Company and delivered to Wells Fargo, and Company waives notice of Wells Fargo's acceptance hereof. Wells Fargo may execute this Agreement if appropriate for the purpose of filing, but the failure of Wells Fargo to execute this Agreement shall not affect or impair the validity or effectiveness of this Agreement. A carbon, photographic or other reproduction of this Agreement or of any financing statement signed by Company shall have the same force and effect as the original for all purposes of a financing statement. If any provision or application of this Agreement is held unlawful or unenforceable in any respect, such illegality or unenforceability shall not affect other provisions or applications which can be given effect and this Agreement shall be construed as if the unlawful or unenforceable provision or application had never been contained herein or prescribed hereby. All representations and warranties contained in this Agreement shall survive the execution, delivery and performance of this Agreement and the creation and payment of the Obligations.


8. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER; ARBITRATION. The terms of Section 13 of the Credit Agreement are incorporated herein by reference, *mutatis mutandis*.

[signatures on next page]

IN WITNESS WHEREOF, the parties have executed this Patent and Trademark Security Agreement as of the date written above.

Frozen Specialties, Inc.
8600 S. Wilkinson Way
Perrysburg, Ohio 43551
Attn: Chief Financial Officer

FROZEN SPECIALTIES, INC

By: 
Print Name: Daniel Bender
Title: Chief Executive Officer

Wells Fargo Bank, National Association
2450 Colorado Avenue, Suite 3000W
Santa Monica, California 90404
Attn: Relationship Manager - Frozen
Specialties, Inc.

WELLS FARGO BANK, NATIONAL
ASSOCIATION

By: _____
Print Name: _____
Title: Authorized Signatory

WFB/Frozen Specialties, Inc.
Patent and Trademark Security Agreement

[signature page]

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TRADEMARK
REEL: 005718 FRAME: 0932

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Frozen Specialties, Inc.
8600 S. Wilkinson Way
Perrysburg, Ohio 43551
Attn: Chief Financial Officer

FROZEN SPECIALTIES, INC.

By: _____
Print Name: _____
Title: _____

Wells Fargo Bank, National Association
2450 Colorado Avenue, Suite 3000W
Santa Monica, California 90404
Attn: Relationship Manager – Frozen
Specialties, Inc.

WELLS FARGO BANK, NATIONAL
ASSOCIATION

By: *Stephanie Cole*
Print Name: Stephanie Cole
Title: Authorized Signatory

WFB/Frozen Specialties, Inc.
Patent and Trademark Security Agreement

[signature page]

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EXHIBIT A

UNITED STATES ISSUED PATENTS

- None

UNITED STATES PATENT APPLICATIONS

- None

FOREIGN ISSUED PATENTS

- None

UNITED STATES PATENT APPLICATIONS

- None

EXHIBIT B

UNITED STATES ISSUED TRADEMARKS, SERVICE MARKS

AND COLLECTIVE MEMBERSHIP MARKS

Trademarks Owned (all owned by Frozen Specialties, Inc.)

Trademark	Database	Application Number	Application Date	Registration Number	Registration Date
FSI	U.S. Federal	77126719	09-MAR-2007	3648066	30-JUN-2009
DELIBITES	U.S. Federal	<u>76393154</u>	10-APR-2002	<u>2691744</u>	25-FEB-2003
DELI BITES	U.S. Federal	76339027	16-NOV-2001	2821811	9-MAR-2004
SHRIMP BITES	U.S. Federal	<u>76242542</u>	18-APR-2001	<u>2755028</u>	26-AUG-2003
RISING SLICES	U.S. Federal	<u>76197674</u>	22-JAN-2001	<u>2745345</u>	29-JUL-2003
BURGER BITES	U.S. Federal	<u>76172512</u>	29-NOV-2000	<u>2696829</u>	11-MAR-2003
MORNING BITES	U.S. Federal	<u>75504391</u>	18-JUN-1998	<u>2425543</u>	30-JAN-2001
FSI	U.S. Federal	75216608	20-DEC-1996	2116332	25-NOV-1997
PIZZA FINGERS	U.S. Federal	74460976	22-NOV-1993	1903731	04-JUL-1995
CRAB BITES	U.S. Federal	74271686	04-MAY-1992	1870710	27-DEC-1994
EGG ROLL BITES	U.S. Federal	74202602	12-SEP-1991	1720533	29-SEP-1992
PIZZA BITES	U.S. Federal	73815427	28-JUL-1989	1593255	24-APR-1990
PIZZA BITES	U.S. Federal	73366085	24-MAY-1982	1261356	13-DEC-1983
FOX DE LUXE	U.S. Federal	73126351	25-MAY-1977	1097642	25-JUL-1978
MR. P'S	U.S. Federal	72414946	08-FEB-1972	0965688	07-AUG-1973
GW	U.S. Federal	72043751	10-JAN-1958	0676421	31-MAR-1959

Trademark	Database	Application Number	Application Date	Registration Number	Registration Date
SEÑOR P'S	Mexico	725327	27-JUN-2005	917915	30-JAN-2006
SIMPLY FOR YOU	U.S. Federal	<u>85238023</u>	09-FEB-2011	<u>4246594</u>	20-NOV-2012
MR. P'S	U.S. Federal	<u>85549799</u>	22-FEB-2012	<u>4522466</u>	29-APR-2014
MR. P'S	Mexico	32425	15-APR-1998	586451	31-AUG-1998

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