

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM870467

<b>SUBMISSION TYPE:</b>	RESUBMISSION
<b>NATURE OF CONVEYANCE:</b>	NUNC PRO TUNC ASSIGNMENT
<b>EFFECTIVE DATE:</b>	08/30/2019
<b>RESUBMIT DOCUMENT ID:</b>	900829145

## CONVEYING PARTY DATA

Name	Formerly	Execution Date	Entity Type
DAS Brands, LLC		11/22/2023	Limited Liability Company: PENNSYLVANIA

## RECEIVING PARTY DATA

<b>Name:</b>	PEN LLC
<b>Street Address:</b>	121 Jalyn Drive
<b>City:</b>	New Holland
<b>State/Country:</b>	PENNSYLVANIA
<b>Postal Code:</b>	17557
<b>Entity Type:</b>	Limited Liability Company: PENNSYLVANIA

## PROPERTY NUMBERS Total: 1

Property Type	Number	Word Mark
<b>Registration Number:</b>	4928559	ORIGINAL BILL'S

## CORRESPONDENCE DATA

## Fax Number:

*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:** (610) 685-1600  
**Email:** jgoldschmidt@smithbukowski.com  
**Correspondent Name:** John W. Goldschmidt, Jr.  
**Address Line 1:** 1050 Spring Street  
**Address Line 2:** Smith Bukowski, LLC  
**Address Line 4:** Wyomissing, PENNSYLVANIA 19610

<b>ATTORNEY DOCKET NUMBER:</b>	SB-PE-00300
<b>NAME OF SUBMITTER:</b>	John W. Goldschmidt, Jr.
<b>SIGNATURE:</b>	/John W. Goldschmidt, Jr./
<b>DATE SIGNED:</b>	01/23/2024

## Total Attachments: 8

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## CONFIRMATORY TRADEMARK ASSIGNMENT

This **CONFIRMATORY TRADEMARK ASSIGNMENT** (the “**Assignment**”), effective as of August 30, 2019, by DAS Brands, LLC, a Pennsylvania limited liability company (“**DAS Brands**” or “**Assignor**”).

**WHEREAS**, prior to August 30, 2019, DAS Brands was the owner of the trademarks set forth in Exhibit “A” hereto (the “**Trademarks**”) and the United States Trademark Registration set forth in Exhibit “B” hereto (the “**Registration**”);

**WHEREAS**, DAS Foods, LLC, a Pennsylvania Limited Liability Company (“**DAS Foods**”), and Pony Express Foods, LLC, a Pennsylvania Limited Liability Company (“**Pony Express Foods**”), were Members of and jointly owned PEN LLC, a Pennsylvania limited liability company (“**PEN**” or “**Assignee**”);

**WHEREAS**, DAS Brands licensed to DAS Foods the right to use and license others to use of the Trademarks and Registration;

**WHEREAS**, by License Agreement dated January 29, 2016, DAS Foods licensed the use of the Trademarks and Registration to PEN;

**WHEREAS**, on or about August 30, 2019, DAS Foods and Pony Express Foods entered into a Membership Interest Purchase Agreement (the “**Purchase Agreement**”) by which DAS Foods assigned, transferred and sold to Pony Express Foods its entire Membership Interest in PEN (the “**Assigned Interest**”);

**WHEREAS**, on or about August 30, 2019, DAS Brands conveyed to PEN its entire right, title, and interest in, to and under the Trademarks and Registration;

**WHEREAS**, DAS Brands and PEN are desirous of confirming in writing the conveyance to PEN of DAS Brand’s entire right, title, and interest in, to and under the Trademarks and Registration; and

**WHEREAS**, in furtherance of DAS Brands has agreed to execute and deliver this Assignment for recording in the United States Patent and Trademark Office, corresponding entities or agencies in any applicable jurisdictions, or as otherwise may be necessary or desirable to establish PEN’s right, title and interest in and to the Trademarks and Registration.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, DAS Brands agrees as follows:

1. Assignment. DAS Brands hereby confirms that it has sold, conveyed, transferred, and assigned to PEN all of DAS Brand’s right, title, and interest in and to the following:

(a) the Trademarks set forth on Schedule A hereto, together with the goodwill of the business, if any, connected with the use of, and symbolized by, the Trademarks;

(b) the Registration set forth on Schedule B hereto, and all issuances, extensions, renewals, and foreign counterparts thereof, together with the goodwill of the business, if any, connected with the use of, and symbolized by, the Registration and registered mark;

(c) all rights of any kind whatsoever of DAS Brands accruing under any of the Trademarks and/or Registration provided by applicable law of any jurisdiction, by international treaties and conventions, and otherwise throughout the world; and

(d) any and all claims and causes of action with respect to any of the Trademarks and/or Registration, whether accruing before, on, or after the date hereof, including all rights to and claims for damages, restitution, and injunctive and other legal and equitable relief for past, present, and future infringement, dilution, misappropriation, violation, misuse, breach, or default, with the right but no obligation to sue for such legal and equitable relief and to collect, or otherwise recover, any such damages.


2. No Warranty and Release. The Trademarks and Registration were conveyed "as is" and no warranty with regard to the Trademarks and Registration were made at conveyance or is made with this Confirmatory Trademark Assignment. Notwithstanding the foregoing Section 1, nothing contained in this Agreement shall require DAS Brands to defend the Trademarks or Registration, pursue litigation, pursue relief for infringement, or take any other action to defend the Trademarks and Registration. PEN hereby releases and waives any right of action against DAS Brands for any past or present failure to defend the Trademarks and Registration.

3. Recordation and Further Actions. DAS Brands hereby authorizes the United States Patent and Trademark Office and the officials of corresponding entities or agencies in any applicable jurisdictions to record and register this Confirmatory Trademark Assignment upon request by PEN. Following the date hereof, upon PEN's reasonable request, and at PEN's sole cost and expense, DAS Brands shall take such steps and actions, and provide such cooperation and assistance to PEN and its successors, assigns, and legal representatives, including the execution and delivery of any affidavits, declarations, oaths, exhibits, assignments, powers of attorney, or other documents, as may be necessary to effect, evidence, or perfect the assignment of the Trademarks and Registration to PEN, or any assignee or successor thereto.

4. Successors and Assigns. This Assignment shall be binding upon and shall inure to the benefit of DAS Brands and PEN and their respective successors and assigns.

IN WITNESS WHEREOF, DAS Brands, LLC has duly executed and delivered this Confirmatory Trademark Assignment effective as of the date first written above.

DAS BRANDS, LLC




Name: Andrew L. Johnson

Title: Treasurer

SCHEDULE A

Trademarks

Mark
ORIGINAL BILL'S

EAT BOLDLY

SCHEDULE B

United States Trademark Registration

Mark	Serial No.	Filing Date	Registration No.	Registration Date
ORIGINAL BILL'S	86/465,764	November 26, 2014	4,928,559	March 29, 2016

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>In re Registration of:</b>	:
PEN LLC	:
	:
<b>Registration No:</b> 4,928,559	:
	: <b>Document ID:</b> 900829145
<b>Registered:</b> March 29, 2016	:
	:
<b>Serial No:</b> 86/465,764	: <b>Access Code:</b> 0SMF05A9U9O3YKY
	:
<b>Filed:</b> November 26, 2014	:
	:
<b>Mark:</b> ORIGINAL BILL'S	:

Commissioner for Trademarks  
P.O. Box 1450  
Alexandria, VA 22313-1450

Attention: Assignment Recordation Services Branch

**RESPONSE TO NOTICE OF NON-RECORDATION  
AND  
REQUEST FOR RECONSIDERATION**

Sir:

In response to the Notice of Non-Recordation dated January 23, 2024, Owner/Receiving Party of the above-captioned Registration, PEN LLC, hereby resubmits, without prejudice, the enclosed Confirmatory Trademark Assignment (the "Assignment") originally submitted for recordation on November 28, 2023, and respectfully requests reconsideration by the

Assignment Recordation Branch of its refusal to record the Assignment for the reasons set forth in the Remarks below.

**In the Recodation Cover Sheet:**

Kindly delete, without prejudice, the Entity Type of the Conveying Party, and insert the following therefor:

**-- Limited Liability Company --**

**REMARKS**

In view of the foregoing and the Remarks which follow, Owner/Receiving Party, PEN LLC, respectfully requests reconsideration of the request for recordation of the above-captioned Registration in accordance with the enclosed Assignment document.

**1. Conveying Party's Entity Type**

The Assignment Recordation Branch has identified a discrepancy with the Conveying Party's Entity Type inasmuch as the "cover sheet states a Corporation, but the document states a Limited Liability Company." The Assignment Recordation Branch has requested clarification of this discrepancy.

To clarify, the Conveying Party's entity type is a Limited Liability Company as set forth in the Assignment document being filed concurrently herewith. Accordingly, the Entity Type of the Conveying Party on the Cover Sheet is hereby amended to "Limited Liability Company" both herein and by the resubmission being concurrently submitted electronically via the ETAS website.

Entry of this amendment to the Entity Type of the Conveying Party on the Cover



Sheet is respectfully requested.

**2. Execution Date of the Assignment Document**

The Assignment Recordation Branch has identified a discrepancy with the execution date of Assignment document inasmuch as the “cover sheet states 11/22.2023 [sic]” but the “assignment document is missing the execution date.” The Assignment Recordation Branch has requested clarification of this discrepancy.

To clarify, although the Assignment document does not bear the date upon which the Conveying Party actually executed the Assignment document, as noted on the Cover Sheet the nature of the conveyance is a “Nunc Pro Tunc Assignment” having an “Effective Date” of “08/30/2019.” Likewise, the Assignment document itself is entitled “Confirmatory Trademark Assignment” and the fifth “Whereas” clause on the first page of the Assignment document states that “on or about August 30, 2019, DAS Brands conveyed to PEN its entire right, title, and interest in, to and under the Trademarks and Registration.” Inasmuch as the conveyance is a “Nunc Pro Tunc Assignment,” it is the “Effective Date” of the Assignment which is material to the transfer of property and not the actual Execution Date of the Assignment document itself.

Because the Assignment document does not bear a date of execution by the Conveying Party, the date of receipt of the executed Assignment document from the Conveying Party’s representative by the Receiving Party’s undersigned representative, namely November 22, 2023, was used as the “Execution Date” of the Assignment document on the Cover Sheet. This date represents a date of execution of the Assignment document which was at least as early as November 22, 2023.

Moreover, the Receiving Party respectfully submits that neither the Trademark

Rules of Practice nor the Trademark Manual of Examining Procedure require that the acceptance of an Assignment document for recordation in the United States Patent and Trademark Office bear an execution date on the document to be recorded, and particularly not in the case of the recordation of a “Nunc Pro Tunc Assignment.”

Accordingly, the Receiving Party respectfully requests that the enclosed Assignment document be recorded in the United States Patent and Trademark Office as submitted herewith.

**Conclusion**

In view of the foregoing, the Receiving Party respectfully requests that the enclosed Assignment document be recorded in the United States Patent and Trademark Office as submitted herewith.

Respectfully submitted,

/John W. Goldschmidt, Jr./  
John W. Goldschmidt, Jr.  
Attorney of Record  
Registration No. 34,828 and  
Pennsylvania Bar Member No. 55,298  
**SMITH BUKOWSKI, LLC**  
Suite 1  
1050 Spring Street  
Wyomissing, Pennsylvania 19610  
Telephone: (610) 685-1600  
Facsimile: (610) 685-1300

Date: January 23, 2024

**Attorneys for Owner/Receiving Party,  
PEN LLC**