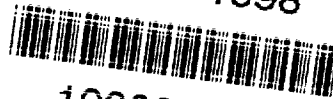


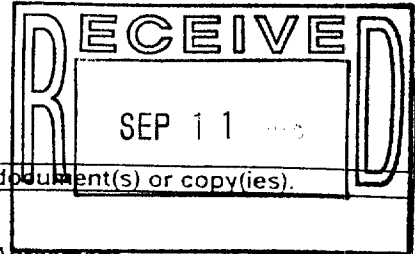
FORM PTO-1619A

Expires 06/30/99
OMB 0651-0027

09-16-1998

U.S. Department of Commerce
Patent and Trademark Office
PATENT

100829016

RECORDATION FORM COVER SHEET
PATENTS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

☒ New
☐ Resubmission (Non-Recordation)

Document ID#

☐ Correction of PTO Error

Reel #

Frame #

☐ Corrective Document

Reel #

Frame #

Conveyance Type

☐ Assignment☐ License☐ Merger☒ Security Agreement
(Supplemental Obligations)☐ Change of Name☐ OtherU.S. Government
(For Use ONLY by U.S. Government Agencies)☐ Departmental File☐ Secret File

Conveying Party(ies)

☐ Mark if additional names of conveying parties attached

Name (line 1)

Boston Chicken, Inc.

Execution Date
Month Day Year
07 15 1998

Name (line 2)

Second Party

Name (line 1)

Execution Date
Month Day Year

Name (line 2)

Receiving Party

☐ Mark if additional names of receiving parties attached

Name (line 1)

Bank of America National Trust and Savings Association

Name (line 2)

☐ If document to be recorded
is an assignment and the
receiving party is not
domiciled in the United
States, an appointment
of a domestic
representative is attached.
(Designation must be a
separate document from
Assignment.)

Address (line 1)

231 South LaSalle Street

Address (line 2)

Address (line 3)

Chicago

Illinois

60697

City

State/Country

Zip Code

Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

09/16/1998 SSNITH 00000004 392862

FOR OFFICE USE ONLY

01 FC:581

80.00 DP

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Mail documents to be recorded with required cover sheet(s) information to:
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

PATENT
REEL: 9445 FRAME: 0029

Correspondent Name and Address Area Code and Telephone Number **(312) 853-7000**

Name **Michelle L. Blackmon**

Address (line 1) **Sidley & Austin**

Address (line 2) **One First National Plaza**

Address (line 3) **Suite 4900**

Address (line 4) **Chicago, IL 60603**

Pages Enter the total number of pages of the attached conveyance document including any attachments. # **11**

Application Number(s) or Patent Number(s) ☐ Mark if additional numbers attached
Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

Patent Application Number(s)

Patent Number(s)

D392882	D383033	

If document is being filed together with a new Patent Application, enter the date the patent application was filed by the first named executing inventor. Month Day Year

Patent Cooperation Treaty (PCT)

Enter PCT application number

only if a U.S. Application Number has not been assigned.

PCT		PCT		PCT	
PCT		PCT		PCT	

Number of Properties

Enter the total number of properties involved. # **2**

Fee Amount

Fee Amount for Properties Listed (37 CFR 3.41): \$ **80.00**

Method of Payment:

Deposit Account

Enclosed ☒

Deposit Account ☐

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number: #

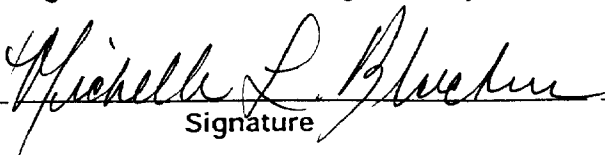
Authorization to charge additional fees: Yes ☐ No ☒

Statement and Signature

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Michelle L. Blackmon

Name of Person Signing



Signature

9/9/98

Date

PATENT SECURITY AGREEMENT

THIS PATENT SECURITY AGREEMENT (this "**Agreement**") is dated as of July 15, 1998 and is made by Boston Chicken, Inc., a Delaware corporation ("**Grantor**"), in favor of and for the benefit of **BANK OF AMERICA NATIONAL TRUST AND SAVINGS ASSOCIATION** ("**BofA**"), as Common Collateral Agent (the "**Common Collateral Agent**"). Undefined, capitalized terms used herein shall have the meanings ascribed thereto in the "Intercreditor Agreement" referred to and defined below.

RECITALS

WHEREAS, the Other Creditors (collectively, the "**Secured Creditors**") are parties to and may hereafter enter into various agreements and arrangements (as may be amended, supplemented, modified, restated, refinanced, refunded or renewed from time to time the "**Supplemental Arrangements**") with the Grantor and certain of its Subsidiaries (the Company and its Subsidiaries being referred to collectively as the "**BCI Group**") pursuant to which the members of the BCI Group may from time to time incur liquidated, contingent, matured and unmatured obligations, liabilities, fees, expenses and indemnities owing or payable to such Secured Creditors;

WHEREAS, the Grantor, the "Loan Agent", the "1996 Lease Agent" (each as defined in the Intercreditor Agreement referred to below) and the Common Collateral Agent are parties to that certain Intercreditor Agreement, dated as of December 9, 1996, as amended and restated by that certain Amended and Restated Intercreditor Agreement dated as of October 24, 1997 (as so amended and restated, the "**Original Intercreditor Agreement**"), which set forth certain agreements with respect to, among other things, the rights, claims and interests of the "Revolving Lenders" and the "1996 Lease Lenders" (each as defined in the Intercreditor Agreement referred to below) with respect to the Grantor and certain of its Subsidiaries;

WHEREAS, concurrently herewith, the Grantor, the Common Collateral Agent, the Loan Agent, the Revolving Lenders, the 1996 Lease Agent, the 1996 Lease Lenders, the "Co-Agents", the "Liquidity Lenders", the "Supplemental Banks" (each as defined therein) and the Secured Creditors, as the "Other Creditors" therein, have entered into that certain Second Amended and Restated Intercreditor Agreement (the "**Intercreditor Amendment**"), pursuant to which the Original Intercreditor Agreement has been further amended and restated in its entirety (as so amended and restated, and as the same may be further amended, modified, supplemented and/or restated from time to time, the "**Intercreditor Agreement**"), which sets forth certain agreements with respect to, among other things, the Secured Creditors' rights, claims and interests with respect to the Grantor and certain of its Subsidiaries;

WHEREAS, it is a condition to the execution and delivery of the Intercreditor Amendment and the continued provision of Supplemental Arrangements by the Secured Creditors

and the financial accommodations contemplated thereby, that the Grantor agree to execute and deliver this Agreement and to grant security interests and liens on the "Collateral" referred to and defined below as security for the "Supplemental Obligations" (as defined in the Intercreditor Agreement; the Supplemental Obligations being hereinafter referred to as the "**Secured Debt**");

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce the execution and delivery of the Intercreditor Amendment and to induce the Secured Creditors to provide the financial accommodations contemplated by the Supplemental Arrangements, the Grantor agrees as follows:

AGREEMENT

1. Grantor hereby grants to the Common Collateral Agent for the benefit of all Secured Creditors, as security for all of the "Secured Obligations" (as defined in Paragraph 2), a valid, enforceable security interest, as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale to the extent permitted by applicable law, all of Grantor's now owned or existing and hereafter acquired or arising:

- (i) patent and patent applications, and the inventions and improvements described and claimed therein, including, without limitation, those patent and patent applications listed on Schedule A attached hereto and made a part hereof (the "**Patents**"), and all rights under or interest in any patent license agreements with any other party, whether Grantor is a licensee or licensor under any such license agreement, including, without limitation, those patent license agreements listed on Schedule B attached hereto (the "**Patent License Agreements**"), and the right to prepare for sale and sell any and all inventory now or hereafter owned by Grantor and now or hereafter covered by such licenses; and
- (ii) (a) all reissues, divisions, continuations, renewals, extensions and continuation-in-part thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements thereof, (c) all rights to sue for past, present and future infringements thereof, and (d) all of Grantor's rights corresponding thereto throughout the world (all of the Patents and Patent License Agreements in the foregoing paragraph (i) above, together with the items described in clauses (a) to (d) in this paragraph (ii) hereinafter are sometimes referred to individually and/or collectively as the "**Patent Collateral**")

2. This Agreement evidences the Grantor's grant of security interests in the Patent Collateral as security for the prompt payment or performance in full when due, whether at stated maturity, by acceleration or otherwise (including the payment of amounts that would become due

but for the operation of the automatic stay under Section 362(a) of the Bankruptcy Code, 11 U.S.C. § 362(a), whether or not allowed) of all "Secured Obligations" (as defined herein) of every nature of the Grantor now or hereafter existing under the "Credit Documents" (as defined in the Intercreditor Agreement), including the Secured Debt and any promissory note or other document or instrument delivered pursuant thereto and all amendments, extensions or renewals thereof or hereof, whether for principal or interest (including, without limitation, all amounts owed by the Grantor, whether designated as principal, interest or otherwise, and interest that, but for the filing of a petition in bankruptcy with respect to the Grantor, would accrue on such obligations), together with all losses, fees, costs and expenses (including, without limitation, all court costs and reasonable attorneys' and paralegals' fees, costs and expenses) paid or incurred by the Common Collateral Agent or any of the Secured Creditors in: (1) endeavoring to collect all or any part of the Secured Debt from, or in prosecuting any action against, the Grantor relating to all or any part of the Secured Debt or the transactions contemplated by the Supplemental Arrangements and the Intercreditor Agreement; (2) taking any action with respect to any security or collateral securing all or any part of the Secured Debt or the obligations of the Grantor hereunder or thereunder; and (3) preserving, protecting or defending the enforceability of, or enforcing, this Agreement, the Supplemental Arrangements, the Intercreditor Agreement and related documents or their respective rights hereunder or thereunder (all such costs and expenses are hereinafter referred to as the "**Expenses**") or otherwise, whether now existing or hereafter arising, voluntary or involuntary, whether or not jointly owed with others, direct or indirect, absolute or contingent, liquidated or unliquidated, and whether or not from time to time decreased or extinguished and later increased, created or incurred, and all or any portion of such obligations that are paid, to the extent all or any part of such payment is avoided or recovered directly or indirectly from the Common Collateral Agent or any of the Secured Creditors as a preference, fraudulent transfer or otherwise (all such obligations and all obligations of every nature of the Grantor now or hereafter existing under this Agreement being the "**Secured Obligations**").

3. Grantor warrants and represents to and covenants with the Common Collateral Agent that:

(a) Grantor is the present owner of the entire right, title and interest in and to the Patents that are the subject of registrations on Schedule A, and, to the best of its knowledge, has good and indefeasible title thereto, and the Patent License Agreements listed on Schedule B include all of the patent license agreements under which Grantor is the licensee or licensor.

(b) The Patent Collateral are free and clear of all security interests, "Liens" (as defined in that certain Facilities Agreement, dated as of December 9, 1996, as amended and restated by that certain Amended and Restated Facilities Agreement dated as of October 24, 1997, as further amended by that First Amendment and Consent to Amended and Restated Facilities Agreement of even date herewith (as the same may be further amended, supplemented, modified or restated from time to time, the "**Facilities Agreement**")), claims and encumbrances, except those permitted by the Facilities Agreement.

(c) Grantor hereby authorizes Agent to modify this Agreement unilaterally (i) by amending Schedule A to include any future patents and patent applications, and by amending Schedule B to include any future patent license agreements, and (ii) by filing, in addition to and not in substitution for this Agreement, a duplicate original of this Agreement containing a revised Schedule A or B thereto, as the case may be, with respect to such future patents, patent applications and patent license agreements.

(d) Except as otherwise disclosed in writing by Grantor to the Common Collateral Agent, Grantor has not granted any license, rights and privileges in or to the Patent Collateral to any party, except the Common Collateral Agent.

(e) To the best of Grantor's knowledge, Grantor may use the Patents that are the subject of registrations on Schedule A free and clear of the infringement of the rights of others.

(f) Except as otherwise disclosed in writing by Grantor to the Common Collateral Agent, Grantor has no outstanding threats of action and has not commenced and is not about to commence any suit or action against others in connection with the violation or enforcement of the rights of Grantor in the Patent Collateral.

(g) The Patents on Schedule A constitute all of the United States registrations and applications for the Patents owned by Grantor.

(h) Grantor has not and will not make any agreement or assignment in conflict with this Agreement.

4. To the best of Grantor's knowledge, the patent applications have been duly and properly filed, and the patent registrations filed and issued, and the Patents which are the subject of registrations on Schedule A are valid and enforceable.

5. Grantor shall have the duty, to the extent desirable in the normal conduct of Grantor's business, to: (i) prosecute diligently any patent application that is part of the Patents pending as of date hereof or hereafter until the termination of this Agreement. Grantor agrees not to abandon any Patent or License without prior written consent of the Agent and to use its best efforts to maintain in full force and effect the Patent Collateral that are or shall be necessary or economically desirable in the operation of the Grantor's business. Grantor shall not take any action, nor permit any action to be taken by others subject to Grantor's control, including licensees, or fail to take any action regarding any matter of which the Grantor has knowledge, which would affect the validity and enforcement of the Patents, or impair the value of the Patents.

6. Subject to the other provisions of this Agreement, Grantor shall assume and continue, at its own cost and expense, through counsel of its own choice and acceptable to the

Common Collateral Agent, full and complete responsibility for the prosecution, issuance, enforcement, maintenance, renewal or any other actions in connection with the Patent Collateral.

7. Grantor promptly shall notify the Common Collateral Agent, in writing, of any suit, action or proceeding brought against it relating to, concerned with or affecting the Patents or infringement of another patent, and shall, on written request, deliver to the Common Collateral Agent a copy of all pleadings, papers, orders or decrees theretofore and thereafter filed in any such suit, action or proceeding, and shall keep the Common Collateral Agent fully advised in writing of the progress of any such suit.

8. Grantor shall provide the Common Collateral Agent quarterly with a listing of all new applications for patents (together with a listing of the issuance of registrations on any previous applications). Any new patent applications and issued patents registrations shall be subject to the terms and conditions of the Facilities Agreement and this Agreement and come within the term "Patent Collateral" as set forth herein. Grantor shall, together with the list, provide the Common Collateral Agent, on written request, with duly executed documents in a form acceptable to counsel for the Common Collateral Agent and suitable for recording, which documents grant a valid enforceable security interest to the Common Collateral Agent for the benefit of the Secured Creditors as set forth in Paragraph 1 hereof, and subject to all the terms of this Agreement and the Facilities Agreement.

9. Grantor shall provide the Common Collateral Agent, at least annually, with a complete status report of all the Patent Collateral, and upon written request by the Common Collateral Agent, shall deliver to counsel for the Common Collateral Agent copies of any patent applications and other non-privileged documents concerned with or related to the adoption, use, prosecution, protection, maintenance, renewal, enforcement or issuance of the Patent Collateral.

10. The occurrence of either of the following shall constitute an "Event of Default" hereunder: (a) if Grantor shall fail or neglect to perform, keep or observe any material term, provision, condition, covenant, warranty or representation contained in this Agreement which is required to be performed, kept or observed by Grantor, and the same is not cured within 15 "Business Days" (as defined in the Intercreditor Agreement) after written notice thereof from the Common Collateral Agent to Grantor; or (b) occurrence of a "Default" (as defined in the Intercreditor Agreement) with respect to the Supplemental Arrangements under the Facilities Agreement. Grantor hereby appoints and designates the Common Collateral Agent its sole attorney to take any such action in the name of Grantor after an Event of Default as the Common Collateral Agent deems necessary under the circumstances, and Grantor shall pay all fees and expenses in connection with such action by its attorney so appointed and designated.

11. If any Event of Default shall have occurred and be continuing, the Common Collateral Agent may exercise in respect of the Patent Collateral (a) all the rights and remedies it has as a secured party on default under the Uniform Commercial Code of the State of New York (the "Code") (whether or not the Code applies to the affected Patent Collateral), (b) all of the rights and remedies provided for in this Agreement, the Facilities Agreement, the other Credit

Documents and any other agreement between the Grantor and the Secured Creditors or between the Grantor and the Common Collateral Agent, as applicable, and (c) such other rights and remedies as may be provided by law or otherwise (such rights and remedies of the Common Collateral Agent to be cumulative and non-exclusive). Without limiting the foregoing rights of the Common Collateral Agent in any respect, following the occurrence and during the continuance of an Event of Default hereunder, the Common Collateral Agent may grant, in Grantor's name and as Grantor's agent and attorney-in-fact or in its own name as Common Collateral Agent, licenses, rights or other privileges in, or otherwise take whatever action with respect to the Patent Collateral that the Common Collateral Agent deems necessary or appropriate under the circumstances.

12. Should any part or provision of this Agreement be held unenforceable or conflicting with the law of any jurisdiction, the validity of the remaining parts or provisions hereof shall not be affected thereby.

13. Grantor agrees, on written request by the Common Collateral Agent, now and during the term of this Agreement to do all such acts as may be reasonably necessary or appropriate in order to carry out the intent and purpose of this Agreement, and to protect the interest of the Secured Creditors in the Patent Collateral.

14. This Agreement shall create a continuing security interest in the Patent Collateral and shall (a) remain in full force and effect until the indefeasible payment in full in cash of the Secured Obligations and termination of all contractual obligations of all Secured Creditors under all Credit Documents to extend credit of any nature to the Grantor, (b) be binding upon the Grantor, its successors and assigns and (c) inure, together with the rights and remedies of the Common Collateral Agent hereunder, to the benefit of the Common Collateral Agent and its successors, transferees and assigns. Upon the indefeasible payment in full in cash of the Secured Obligations and termination of all contractual obligations of all Secured Creditors under all Credit Documents to extend credit of any nature to Grantor, the security interests granted hereby shall terminate and all rights to the Collateral shall revert to the Grantor. Upon any such termination, the Common Collateral Agent will, at the Grantor's expense, execute and deliver to the Grantor such documents as the Grantor shall reasonably request to evidence such termination and shall terminate its financing statements with regard to the Collateral wherever filed.

15. It is the intent of the parties that this Agreement grants a security interest in all of Grantor's right, title and interest in and to the Patent Collateral and is not intended to be, and shall not be deemed to be, an assignment of the Patent Collateral.

16. No amendment or waiver of any provision of this Agreement nor consent to any departure by the Grantor herefrom, shall in any event be effective unless the same shall be in writing and signed by the Common Collateral Agent and the Grantor, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

17. All notices and other communications provided for under this Agreement shall be in writing (including telegraphic, telex or facsimile communication) and mailed or telecommunicated or delivered at the address of such party set forth in the Facilities Agreement; or, as to each party, at such other address as shall be designated by such party in a written notice to the other party complying as to delivery with the terms of this Paragraph 18. All such notices and communications shall, when mailed or telecommunicated, be effective upon the earlier of actual receipt or three (3) Business Days after deposited in the mails, or one (1) Business Day after transmitted by telex and the appropriate answerback received, transmitted by facsimile or delivered to the telegraph company, respectively, addressed as aforesaid.

18. Each of the Grantor and the Common Collateral Agent hereby submits to the nonexclusive jurisdiction of the state courts of the State of New York and the federal courts located in New York City, New York for all matters arising under this Agreement and related documents. Service of process sufficient for personal jurisdiction in any action against the Grantor in New York may be made by registered or certified mail, return receipt requested, to the address specified pursuant to Paragraph 18.

19. THIS AGREEMENT SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK AND THE PARTIES HERETO ELECT UNDER NEW YORK GENERAL OBLIGATIONS LAW, SECTION 5-1401, TO APPLY NEW YORK LAW. Unless otherwise defined herein, in the Facilities Agreement or in the Intercreditor Agreement, terms used in Article 9 of the Code as in effect in the State of New York are used herein as therein defined.

20. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

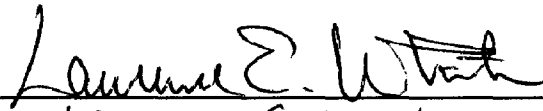
21. This writing is intended by the Grantor and the Common Collateral Agent as the final expression of this Agreement and is also intended, together with the Credit Documents, as a complete and exclusive statement of the terms of their agreement with respect to the matters covered hereby. No course of dealing, course of performance or trade usage, and no parol evidence of any nature, shall be used to supplement or modify and terms of this Agreement. There are no conditions to the full effectiveness of this Agreement.

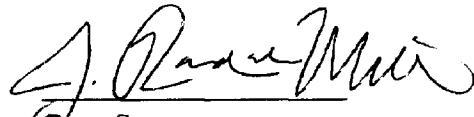
22. This Agreement may be executed in one or more counterparts, each of which when so executed shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

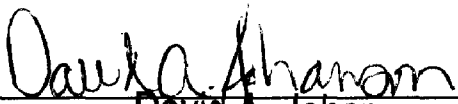
BOSTON CHICKEN, INC., as the Grantor

ATTEST:


By: Lawrence E. White
Title: CFO


ASST. Secretary

BANK OF AMERICAN NATIONAL TRUST
AND SAVINGS ASSOCIATION, as Common
Collateral Agent


By: David A. Johanson
Title: Vice President

**SCHEDULE A
TO
PATENT SECURITY AGREEMENT**

<u>Design Issued</u>	<u>Owner</u>	<u>Patent No.</u>	<u>Date</u>
Compartmental Container	Boston Chicken, Inc.	D392,882	3/31/98
Compartmental Cover for Container	Boston Chicken, Inc.	D383,033	9/2/97

**SCHEDULE B
TO
PATENT SECURITY AGREEMENT**

Patent License Agreements

NONE

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

The foregoing Patent Security Agreement was acknowledged before me
this 15th day of July, 1998, by Lawrence E. White, a CFU of
Boston Chicken, Inc., a Delaware corporation, on behalf of such corporation.



Donald M. Salazar
Notary Public
COOK County, Illinois