

10-21-1998



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MKD 10-19-98

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

**Submission Type**

- New
- Resubmission  
Document ID #
- Correction of PTO Error  
Reel #                      Frame #
- Corrective Document  
Reel #                      Frame #

**Conveyance Type**

- Assignment                       License
- Security Agreement               Nunc Pro Tunc Assignment
- Merger                              Effective Date  
Month      Day      Year
- Change of Name
- Other      Notice of Security Interest

**Conveying Party**

Mark if additional names of conveying parties attached

Name                      Brigham's, Inc.

Execution Date

Formerly

Month      Day      Year  
09      18      1998

- Individual       General Partnership       Limited Partnership       Corporation       Association
- Other
- Citizenship/State of Incorporation/Organization      Massachusetts

**Receiving Party**

Mark if additional names of receiving attached

Name                      Fleet National Bank

DBA/AKA/TA

Composed of

Address (line 1)              One Federal Street

Address (line 2)              Boston                                      MA                                      02110

Address (line 3)                                      City                                      State/Country                                      Zip Code

- Individual       General Partnership       Limited Partnership       Association
  - Corporation       Association
  - Other      National Banking Association
  - Citizenship/State of Incorporation/Organization
- 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 should be attached. (Designation must be a separate document from Assignment.)

10/20/1998 DNGUYEN 00000409 75320914

FOR OFFICE USE ONLY

01 FC:481                      40.00 DP  
02 FC:482                      100.00 DP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

**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)

**Correspondent Name and Address**

Area Code and Telephone Number (617) 570-1292

Name Miriam J. Rovner  
Address (line 1) Goodwin, Procter & Hoar LLP  
Address (line 2) Exchange Place  
Address (line 3) 53 State Street  
Address (line 4) Boston, MA 02109-2881

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

# 4

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

75,320,914 BRIGHAM'S  
75,320,836 BRIGHAM'S, BOSTON'S FAVORITE...

Registration Number(s)

3,196,044 BAY STATE BERRY CRUNCH  
2,187,695 BRIGHAM'S  
2,184,065 BRIGHAM'S

**Number of Properties**

Enter the total number of properties involved

# 5

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$ 140.00

Method of Payment:

Enclosed

Deposit Account

Deposit Account

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

Deposit Account Number:

# 07-1700

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.

Steven M. Ellis

Name and Person Signing

Signature

Date Signed

10/16/99  
TTE

**NOTICE OF SECURITY INTEREST IN AND ASSIGNMENT OF PATENTS  
AND TRADEMARKS**

This Notice of Security Interest in and Assignment of Patents and Trademarks ("Notice") is made as of September 18, 1998 by Brigham's, Inc., a Massachusetts corporation with its principal place of business located at 30 Mill Street, Arlington, Massachusetts 02174 (the "Company").

WHEREAS, the Company and Fleet National Bank (the "Secured Party") entered into a Credit Agreement dated as of May 14, 1997 as amended on the date hereof (the "Credit Agreement"), pursuant to which the Secured Party has established a credit facility in favor of the Company (all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Credit Agreement); and

WHEREAS, the Company and the Secured Party entered into a Security Agreement dated as of May 14, 1997 as amended on the date hereof (the "Security Agreement"), pursuant to which the Company, in order to secure the payment, performance and observance of the obligations of the Company to the Secured Party pursuant to the Credit Agreement, the Bank Agreements or otherwise, has granted the Secured Party a security interest in all the Company's personal property and rights of every kind and nature, whether now owned or hereafter acquired or arising, and all products and proceeds thereof, including but not limited to the Collateral (as defined in paragraph 1 below); and

WHEREAS, the Company has adopted, used and is using, and is the owner of, the patents and trademarks set forth on Schedule A attached hereto, which federal patents and trademarks are registered in the United States Patent and Trademark Office (or for which applications for such registration have been filed and are pending) and are included in the Collateral;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the terms and conditions set forth in the Security Agreement, NOTICE IS HEREBY GIVEN THAT:

1. Pursuant to the Bank Agreements, the Company has granted to the Secured Party a security interest in, among other things, the following "Collateral": all state and federal patents, patent applications, all state and federal trademarks, trademark registrations, trademark registration applications, service marks, service mark registrations, service mark registration applications, all whether now or hereafter owned by the Company, and all goodwill appurtenant to, associated with or symbolized by any of the foregoing, and all proceeds of the foregoing (including but not limited to all royalties and license fees due, accrued or arising in connection with any of the foregoing, and all rights to enforce or sue and/or recover for any past, present or future infringement of any of the foregoing), all in accordance with the terms and conditions of the Bank Agreements.

Without limiting the generality of the foregoing, pursuant to the Bank Agreements the Company has granted to the Secured Party a security interest in the trademarks set forth on Schedule A hereto and in the registrations of such patents and trademarks in the United States Patent and Trademark Office (and the applications for such registration), and in all goodwill appurtenant to, associated with or symbolized by such patents and trademarks and/or the registration thereof.

2. Pursuant to the Bank Agreements, the Company will not hereafter sell or offer to sell or otherwise transfer the Collateral or any interest therein, or grant any rights or interests thereto or therein, except for licenses of the Collateral in the ordinary course of business.

3. The Company will report any new patents and trademark filings and will notify the Secured Party if a patent or trademark has been abandoned or canceled.

4. The Company and the Secured Party do hereby further acknowledge and affirm that the rights and remedies of the Secured Party with respect to the security interest in the Collateral are more fully set forth in the Bank Agreements, the terms and provisions of which are hereby incorporated herein by reference as if fully set forth herein.

5. This instrument is made pursuant to the Bank Agreements. The Company hereby expressly authorizes the Secured Party to record this instrument in the United States Patent and Trademark Office, as well as in any other federal or state office in which any of the Company's rights or interests comprising or connected with the Collateral (including but not limited to rights arising under applicable state law) have been registered or recorded.

[END OF TEXT]

IN WITNESS WHEREOF, the Company has caused this Notice to be duly executed, as an instrument under seal, by its duly authorized officer as of the date above first written.

BRIGHAM'S, INC.

By: [Signature]  
Name: ROGER THERIAULT  
Title: President ; CEO

ACKNOWLEDGED:

FLEET NATIONAL BANK

By: Wendy L. Wolf  
Name: Wendy L. Wolf  
Title: AVP

COMMONWEALTH OF MASSACHUSETTS )  
Suffolk ) ss.

On this 18th day of September, 1998, before me personally appeared Roger Theriault, to me known, who being by me duly sworn, declared that he/~~she~~ is the President and Chief Executive Officer of Brigham's, Inc., the corporation described in and which executed the foregoing instrument; that being duly authorized he/~~she~~ did execute the foregoing instrument on behalf of the corporation therein named; and that the foregoing constitutes the free act and deed of said corporation.

[Signature]  
Notary Public  
Laurie A. Christopher

My commission expires:  
7-7-2000

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EXHIBIT A

List of Additional Trademarks

Federal Trademark Registrations

Registration Number

BAY STATE BERRY CRUNCH  
BRIGHAM'S  
BRIGHAM'S

2,196,044  
2,187,695  
2,184,065

Pending Applications

Serial Number

BRIGHAM'S  
BRIGHAM'S, BOSTON'S FAVORITE SINCE 1914

75/320,914  
75/320,836

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