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ETAS v.1.4

PTO-1594 (Rev. 10/02)

DMB No. 0851-0027 (Exp. 6/30/2006)

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<b>TRADEMARK ASSIGNMENT</b>
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Electronic Version v1.1

Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNS THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
BMP-SPV (I) Ltd.		11/14/2005	LIMITED PARTNERSHIP: CAYMAN ISLANDS
Blackstone Mezzanine Holdings L.P.		11/14/2005	LIMITED PARTNERSHIP: DELAWARE
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	BNP Paribas		
<b>Street Address:</b>	One Front Street		
<b>Internal Address:</b>	23rd Floor		
<b>City:</b>	San Francisco		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	94110		
<b>Entity Type:</b>	FRENCH SOCIETE ANONYME: FRANCE		
<b>PROPERTY NUMBERS Total: 4</b>			

Property Type	Number	Word Mark
Registration Number:	1409722	EIGHT O'CLOCK
Registration Number:	1409723	BOKAR
Registration Number:	2695574	EIGHT O'CLOCK COFFEE ROYALE
Registration Number:	2931238	EIGHT O'CLOCK

**CORRESPONDENCE DATA**

**Fax Number:** (212)909-3078  
*Correspondence will be sent via US Mail when the fax attempt is unsuccessful.*  
**Phone:** 2129093078  
**Email:** szablocki@kirkland.com  
**Correspondent Name:** Kirkland & Ellis LLP, Att: Susan Zablocki  
**Address Line 1:** 153 East 53rd Street  
**Address Line 4:** New York, NEW YORK 10022

<b>NAME OF SUBMITTER:</b>	Susan Zablocki
<b>Signature:</b>	//susan zablocki//
<b>Date:</b>	

**Total Attachments: 11**

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 source=Assignment and Assumption BNP#page10.tif  
 source=Assignment and Assumption BNP#page11.tif

**RECEIPT INFORMATION**

**ETAS ID:** TM61984  
**Receipt Date:** 08/08/2006  
**Fee Amount:** \$115

**Fee calculated, according to the USPTO fee table**

Description	Fee code	Fee code amount	Quantity	Fee
Recording trademark assignment, agreement or other paper, first mark per document	8521	40.0	1	40.0
For second and subsequent marks in the same document	8522	25.0	3	75.0

**TRADEMARK**

<b>Total</b>	<b>\$115.00</b>
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08/08/2006 03:29 PM EDT

**ASSIGNMENT  
AND  
ASSUMPTION AGREEMENT**

This Assignment and Assumption Agreement (this "Assignment"), is dated as of the Effective Date set forth below and is entered into by and between each Assignor identified in item 2 below (each, an "Assignor") and the Assignee identified in item 2 below (the "Assignee"). Capitalized terms used herein but not defined herein shall have the meanings given to them in the Purchase Agreement identified below (as amended, restated, supplemented and/or otherwise modified from time to time, the "Purchase Agreement"). The Standard Terms and Conditions for Assignment and Assumption Agreement set forth in Annex 1 hereto (the "Standard Terms and Conditions") are hereby agreed to and incorporated herein by reference and made a part of this Assignment as if set forth herein in full.

For consideration in the amount of \_\_\_\_\_ in immediately available funds (the "Purchase Price"), each Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from each Assignor, subject to and in accordance with the Standard Terms and Conditions and the Purchase Agreement, as of the Effective Date, the interest in and to all of each Assignor's rights and obligations under the Notes, the Purchase Agreement, the other Note Documents and any other documents or instruments delivered pursuant thereto that represent such Assignor's outstanding rights and obligations under the Notes (each, an "Assigned Interest"). As of the date hereof, the aggregate principal amount of all Notes outstanding under the Note Purchase Agreement is \_\_\_\_\_ . Each sale and assignment is without recourse to any Assignor and, except as expressly provided in this Assignment, without representation or warranty by any Assignor.

1. **Purchase Agreement:** Second-Lien Purchase Agreement, dated as of November 19, 2004, among Eight O'Clock Holdings, Inc. ("Holdings"), Eight O'Clock Coffee Company (the "Borrower"), the noteholders from time to time party thereto and Blackstone Mezzanine Advisors, L.P., as Noteholder's Representative.
2. **Assigned Interest:**

<u>Assignor</u>	<u>Assignee</u>	<u>Principal Amount of Notes Assigned</u>
BMP-SPV (I) Ltd.	BNP Paribas	
Blackstone Mezzanine Holdings L.P.	BNP Paribas	

**Effective Date:** Subject to the sentence below, this Assignment shall be effective upon the date of payment and receipt by the Assignors of the Purchase Price in accordance with the applicable wiring instructions set forth below and in immediately available funds. The parties hereto understand and agree that if the Purchase Price is not received by the Assignors by 3:00 p.m. (New York City time) on

NEW YORK 08/01/06 (2)

November 14, 2005, the Purchase Price shall be increased each day thereafter (until full payment has been received by the Assignors) by a per diem amount equal to \_\_\_\_\_ The Borrower hereby waives the requirements of Section 11.10(b) of the Purchase Agreement with respect to receipt of 10 days written notice of the Effective Date.

**Assignors Information**

<b><u>Payment Instructions:</u></b>	<b><u>Notice Instructions:</u></b>
<b>BMP-SPV (I) LTD.</b> JP Morgan Chase 1 Chase Manhattan Plaza New York, NY 10004-2477 Federal ABA Number: 021-000-021 Account Number: 066-636388 Account Name: BMP-SPV(I) Ltd. Reference: Eight O'Clock Coffee Repayment Amount:	<b>BMP-SPV (I) Ltd</b> c/o Walkers SPV Limited P.O. Box 908 GT George Town, Grand Cayman Cayman Islands  with a copy (which shall not constitute notice) to:  <b>Blackstone Mezzanine Advisors, L.P.</b> 345 Park Avenue, 29th Floor New York, NY 10154 Attention: Salvatore Gentile, or his authorized representative Telephone: (212) 583-5443 Facsimile: (212) 583-5482
<b>Blackstone Mezzanine Holdings L.P.</b> Chase Manhattan Bank 1 Chase Manhattan Plaza New York, NY 10004-2477 Federal ABA Number: 021-000-021 Account Number: 066-615828 Account Name: Blackstone Mezzanine Holdings L.P. Reference: Eight O'Clock Coffee Repayment Amount:	c/o Blackstone Mezzanine Advisors, L.P. 345 Park Avenue, 29th Floor New York, NY 10154 Attention: Salvatore Gentile, or his authorized representative Telephone: (212) 583-5443 Facsimile: (212) 583-5482
<b>Blackstone Mezzanine Advisors L.P.</b> JP Morgan Chase 1 Chase Manhattan Plaza New York, NY 10004-2477 Federal ABA Number: 021-000-021 Account Number: 066-615933 Account Name: Blackstone Mezzanine Advisors L.P. Reference: Eight O'Clock Coffee Expense Reimbursement Amount:	

NEW YORK, 1282549 (22)

Annex I

## EIGHT O'CLOCK COFFEE COMPANY

## PURCHASE AGREEMENT

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT  
AND ASSUMPTION AGREEMENTI. Representations and Warranties.

1.1. Assignor. Each Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of its Assigned Interest, (ii) its Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with any Note Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Purchase Agreement, any Notes, any other Note Document or any other instrument or document delivered pursuant thereto (other than this Assignment) or any collateral thereunder, (iii) the financial condition of Holdings, any of its respective Subsidiaries or affiliates or any other Person obligated in respect of any Note Document or (iv) the performance or observance by Holdings, any of its respective Subsidiaries or affiliates or any other Person of any of their respective obligations under any Note Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and to consummate the transactions contemplated hereby and to become a Noteholder under the Notes and the Purchase Agreement, (ii) confirms that it is not principally engaged in the same business as Holdings and its subsidiaries; (iii) from and after the Effective Date, it shall be bound by the provisions of the Purchase Agreement and, to the extent of the Assigned Interests, shall have the obligations of a Noteholder thereunder, (iv) it has received a copy of the Purchase Agreement, together with copies of the most recent financial statements delivered pursuant to Section 6.1 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and to purchase the Assigned Interests on the basis of which it has made such analysis and decision and (v) if it is organized under the laws of a jurisdiction outside the United States, it has attached to this Assignment any tax documentation required to be delivered by it pursuant to the terms of the Purchase Agreement, duly completed and executed by it; (b) agrees that it will, independently and without reliance upon the Resigning Representative, the Succeeding Representative, each Assignor, or any other Noteholder and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Purchase Agreement; (c) appoints and authorizes the Succeeding Representative to take such action as agent on its behalf and to exercise such powers under the Purchase Agreement and the other Note Documents as are delegated to or otherwise conferred upon the Noteholders' Representative by the terms thereof, together with such powers as are reasonably incidental thereto; and (d) agrees that it will perform in accordance with their terms all of the obligations which by the terms of the Note Documents are required to be performed by it as a Noteholder.

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2. **Payment.** From and after the Effective Date, the Borrower shall make all payments in respect of each Assigned Interest (including payments of principal, interest, fees, commissions and other amounts) to the respective Assignor for amounts which have accrued to and including the Effective Date (but which were not paid as part of the Purchase Price) and to the Assignee for amounts which have accrued after the Effective Date.

3. **Effect of Assignment.** Upon the delivery of a fully executed original hereof to the Resigning Representative, as of the Effective Date, (i) the Assignee shall be a party to the Purchase Agreement and, to the extent provided in this Assignment, have the rights and obligations of a Noteholder thereunder and under the other Note Documents and (ii) each Assignor shall, to the extent provided in this Assignment, relinquish its rights and be released from its obligations under the Purchase Agreement and the other Note Documents. The Assignors shall deliver the original Notes evidencing the Assigned Interests in their possession to the Assignee reasonably promptly after the Effective Date has occurred. In the event that any of such Notes has been lost, destroyed or stolen, the Assignor of such Note shall provide an unsecured indemnity with respect thereto reasonably satisfactory to the Assignee and the Borrower.

4. **Surviving Provisions.** Notwithstanding anything to the contrary contained herein, the Assignors shall, in addition to the Assignee, be entitled to assert any and all indemnification and expense reimbursement rights under the Note Documents (as in effect on the date hereof without giving effect to any amendment or modifications thereto after the date hereof), as if such Assignor had remained a Noteholder under the Note Purchase Agreement and the Notes.

5. Resignation of the Noteholders' Representative. Notwithstanding anything to the contrary contained in the Purchase Agreement, upon the Effective Date, Blackstone Mezzanine Advisors, L.P. (the "Resigning Representative") hereby (a) resigns as Noteholders' Representative under the Purchase Agreement and the other Note Documents and from its various capacities as secured party, grantee, mortgagee, beneficiary, assignee and each other similar capacity under any Note Document pursuant to which the Resigning Representative was granted a security interest in the real or personal property of any Note Party for the benefit of the Secured Parties, and (b) assigns to BNP Paribas, acting in its capacity as successor Noteholders' Representative under the Purchase Agreement (in such capacity, the "Succeeding Representative"), all of the Resigning Representative's respective rights, remedies and interests in the Collateral under the Purchase Agreement, the other Note Documents (except that the Resigning Representative, in addition to the Succeeding Representative, shall continue to be entitled to assert any and all indemnification rights, which shall survive the termination of its agency), and the Succeeding Representative hereby accepts the appointment as Noteholders' Representative and hereby assumes all of such duties and other obligations. The Resigning Representative agrees at the request and the sole expense of the Borrower, to procure, deliver or execute and deliver from time to time after the receipt of the Purchase Price (without representation or warranty) all further instruments and documents and to take any other actions which are reasonably required to evidence the assignment of the Assigned Interests contemplated hereby and the assignment of the security interests contemplated hereby, unless any of the foregoing actions (x) would expose the Resigning Representative or any officer of the Resigning Representative to personal liability or (y) would be contrary to applicable law or prohibited by the terms of the Note Documents.

6. General Provisions. This Assignment shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment by telecopy shall be effective as delivery of a manually executed counterpart of the Assignment. THIS ASSIGNMENT SHALL BE GOVERNED BY, AND CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK (INCLUDING, WITHOUT LIMITATION, SECTION 5.1401 OF THE GENERAL OBLIGATIONS LAW).

\* \* \*



<b>Payment Instructions for legal fees and expenses:</b>	
	<b>The Bank of New York</b>
	<b>1 Wall Street</b>
	<b>New York, New York 10286</b>
<b>Federal ABA</b>	<b>Number: 021-000018</b>
<b>Account No.:</b>	<b>630-1-940538</b>
<b>Account Name:</b>	<b>White &amp; Case LLP</b>
<b>Reference:</b>	<b>1118078-0010/Blackstone-Eight</b>
	<b>O'Clock Coffee</b>
<b>Amount:</b>	

**Assignee Information** (delivered pursuant to Section 11.10(b) of the Purchase Agreement).

<b>Payment Instructions:</b>	<b>Notice Instructions:</b>
<b>BNP Paribas, New York</b>	<b>BNP Paribas</b>
<b>ABA No.: 026 007 689</b>	<b>One Front Street</b>
<b>Account: BNP Paribas, San Francisco</b>	<b>23<sup>rd</sup> Floor</b>
<b>BNPAUS6S</b>	<b>San Francisco, CA 94111</b>
<b>F/O Loan Servicing: 521 315 434 01</b>	<b>Attn: Ms. Susan Bowes</b>
<b>Reference: Eight O'Clock Coffee</b>	<b>Reference: Eight O' Clock Coffee</b>
<b>Attention: Milagros Carrillo</b>	
<b>Telephone: 212-471-6807</b>	

If the Purchase Price has not been paid to the Assignors as set forth herein on or before 5:00 p.m., EST, on Wednesday, November 30, 2005, this Agreement shall, without the necessity of any further action, terminate and be of no force and effect, and no party shall have any further obligations hereunder (except that the Borrower shall be liable to reimburse the Assignors and the Resigning Representative for all of their fees, costs and expenses pursuant to Section 11.6 of the Purchase Agreement).

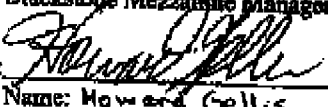
The terms set forth in this Assignment are hereby agreed to:

**ASSIGNORS**

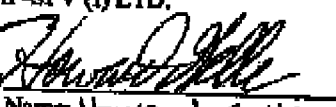
**BLACKSTONE MEZZANINE HOLDINGS L.P.**

By Blackstone Mezzanine Associates L.P., its General Partner

By Blackstone Mezzanine Management Associates L.L.C., its General Partner

By:   
Name: Howard Gellis  
Title:

**BMP-SPV (I) LTD.**

By:   
Name: Howard Gellis  
Title:

NEW YORK 325249 (2X)

**ASSIGNEE**

**BNP PARIBAS**

By: *[Signature]*

Name:

Title:

By: *[Signature]*

Name:

Title:

NEW YORK 548849 (2X)

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Accepted and Agreed:

BLACKSTONE MEZZANINE ADVISORS, L.P.,  
as Resigning Representative

By BMEZ Advisors L.P.C., its General Partner

By: 

Name: Howard Gellis

Title:

NEW YORK, NEW YORK

TRADEMARK

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Accepted and Agreed:

BNP PARIBAS,  
as Succeeding Representative

By: *[Signature]*  
Name:  
Title:

By: *[Signature]*  
Name:  
Title:

NEW YORK 123456789

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NOV-11-2006 FRI 03:51 PM EIGHT O'CLOCK COFFEE

FAX NO.

P. 17/21

Accepted and Agreed:

EIGHT O'CLOCK COFFEE COMPANY

By: 

Name:

Title:

EIGHT O'CLOCK HOLDINGS INC.

By: 

Name:

Title:

01/11/06 03:51 PM

**EXHIBIT A****U.S. TRADEMARKS**

<b>REGISTRATION NO.</b>	<b>MARK</b>	<b>REGISTRATION DATE</b>
1,409,722	EIGHT O'CLOCK	September 16, 1986
2,695,574	EIGHT O'CLOCK COFFEE ROYALE	March 11, 2003
1,409,723	BOKAR	September 16, 1986
2,931,238	EIGHT O'CLOCK	March 8, 2005