

06-27-2002

Form PTO-1594  
(Rev. 03/01)  
OMB NO. 0651-0027 (exp. 5/31/2002)  
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U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):  
Grand Canal Shops II, LLC  
*6.18.02*  
 Individual(s)       Association  
 General Partnership       Limited Partnership  
 Corporation-State      Delaware  
 Other Delaware limited liability company  
Additional name(s) of conveying party(ies) attached?  Yes  No

2. Name and address of receiving party(ies):  
Name: Archon Financial, L.P.  
Internal  
Address: 600 East Las Colinas Blvd., Suite 800  
Street Address: \_\_\_\_\_  
City: Irving State: TX Zip: 75039  
 Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation - State \_\_\_\_\_  
 Other Delaware Limited Partnership  
If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designations must be a separate document from assignment)  
Additional name(s) & address(es) attached?  Yes  No

3. Nature of conveyance:  
 Assignment       Merger  
 Security Agreement       Change of Name  
 Other \_\_\_\_\_  
Execution Date: June 4, 2002

4. Application number(s) or registration number(s):  
A. Trademark Application No.(s)  
See attached Schedule A  
Additional number(s) attached?  Yes  No

B. Trademark Registration No.(s)  
See attached Schedule A

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: Hayley Werner, Esq.  
Internal Address: Paul, Weiss, Rifkind, Wharton & Garrison  
Street Address: 1285 Avenue of the Americas  
City: New York State: NY Zip: 10019

6. Total number of applications and registrations involved: 12  
7. Total fee (37 CFR 3.41) \$ 315.00  
 Enclosed  
 Authorized to be charged to deposit account  
8. Deposit account number:  
50-0706  
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. 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.*  
Hayley Werner      6/19/02  
Name of Person Signing      Signature      Date

06/26/2002 BT0N11 00000156 500706 2528490  
01 FC:481 10.00 CH  
02 FC:482 275.00 CH

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

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Schedule A

<b>MARK</b>	<b>SERIAL/REG. NUMBER</b>
GRAND CANAL SHOPPES	2528490
GRAND CANAL SHOPPES	2527712
THE GRAND CANAL	2532906
Miscellaneous Design	2404897
Miscellaneous Design	2417906
Miscellaneous Design	2358232
GRAND CANAL SHOPPES	75/670927
THE GRAND CANAL	75/136424
THE GRAND CANAL SHOPPES & Design	76/321994
THE GRAND CANAL SHOPPES & Design	76/260393
THE GRAND CANAL SHOPPES & Design	76/260006
THE GRAND CANAL SHOPS	75/511636

# TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (this "Security Agreement"), dated as of June 4, 2002, is made by GRAND CANAL SHOPS II, LLC, a Delaware limited liability company (together with its successors and permitted assigns, "Borrower") to ARCHON FINANCIAL, L.P., a Delaware limited partnership (together with its successors and assigns, the "Lender").

## W I T N E S S E T H:

WHEREAS, Borrower and the Lender are parties to a Loan Agreement dated as of the date hereof (as the same may be extended, renewed, supplemented or modified, the "Loan Agreement"), which Loan Agreement provides for the making of a certain loan (the "Loan") to Borrower;

WHEREAS, the Borrower has executed a Collateral Assignment of Contracts, Licenses, Permits, Agreements, Warranties and Approvals dated as of the date hereof and a Fee and Leasehold Deed of Trust, Assignment of Rents and Leases, Security Agreement and Fixture Filing dated as of the date hereof pursuant to which the Borrower has granted the Lender and/or a trustee for the Lender a security interest in the portion of the business of the Borrower to which the Marks (as defined below) pertain; and

WHEREAS, the execution and delivery to the Lender of this Security Agreement by Borrower is a condition precedent to the obligation of the Lender to make the Loan.

NOW, THEREFORE, Borrower, in consideration of the foregoing and as an inducement to the Lender to make the Loan to Borrower, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, hereby covenants and agrees as follows:

Section 1. Definitions. Capitalized terms used and not defined herein shall have the respective meanings ascribed thereto in the Loan Agreement.

Section 2. Secured Obligations. This Security Agreement is made pursuant to the terms of the Loan Agreement for the purpose of securing the following (collectively, the "Secured Obligations"):

(a) the prompt and punctual payment when due of all amounts now outstanding or hereafter becoming due and payable under the Note and the other Loan Documents, including, without limitation, the Indebtedness, and all amendments and modifications thereof and supplements thereto; and

(b) the performance and observance of all other covenants, agreements and obligations of Borrower under the Loan Documents.

Section 3. Grant of Security Interest. As security for the payment and performance when due (whether at stated maturity, by acceleration or otherwise) of the Secured Obligations, now existing or hereafter arising, Borrower hereby grants to the Lender a security

interest in all of Borrower's right, title and interest, whether now owned or hereafter acquired, in and to: all material trademarks and service marks (registered or unregistered) now or hereafter used or for which a bona fide intent to use has been expressed by filing an application pursuant to Section 1051(b) of Title 15 of the USC with the United States Patent and Trademark Office ("Intent-to-Use Marks") in connection with its business of operating and providing services to the mall complex currently named Grand Canal Shoppes Mall, provided that this grant of security interest shall not include the Intent-To-Use Marks if such marks may be deemed invalidated, canceled, or abandoned due to the grant and/or enforcement of such security interest unless and until such time the grant and/or enforcement of the security interest will not affect the validity of such Intent-To-Use Marks; all applications or registrations in any jurisdiction pertaining thereto, including those listed in the annexed Schedule A, and all amendments, modifications and renewals thereof; all goodwill associated therewith; all licenses, immunities, covenants not to sue and the like relating thereto; and all rights to income, royalties, profits, damages or other rights relating thereto, including the right to sue for past, present or future infringement thereof (collectively, the "Marks").

Section 4. General Covenants, Representations and Warranties. Borrower agrees that it will not, without the prior written consent of Lender, assign or transfer, pledge, mortgage, license, or allow a security interest or lien to be taken by anyone other than Lender in the Marks, provided that Borrower may, without the prior written consent of Lender, license the Marks in connection with any project owned, operated or managed by Affiliates of the Sponsor or as to which Sponsor or any Affiliate owns a direct or indirect equity interest. Borrower further agrees that it will not, without the prior written consent of Lender, take any other actions that are contrary to or inconsistent with the rights granted to Lender in this Security Agreement and in its reasonable business judgment will not cease the use of any Mark or, other than in accordance with the Loan Documents, take any action or fail to take any action that will result in the cancellation or expiration of any of the applications or registrations for the Marks without the prior written agreement of Lender.

(a) Borrower further agrees that it has the obligation, at its own cost, unless otherwise consented to in writing by Lender:

(i) To take all reasonable actions to properly maintain and renew all registered Marks that are or may become subject to this Security Agreement for the full term or terms allowed by law including but not limited to the appropriate and timely payment of any required fees and the appropriate and timely filing of any documents or declarations necessary to maintain and renew registrations for the Marks (including the filing of declarations of use under Section 8 of the Trademark Act of 1946 ("Lanham Act"), 15 USC 1058, and, if possible, declarations of incontestability under Section 15 of the Lanham Act, 15 USC 1065) and to take any other actions, including but not limited to continuing to use the Marks in United States commerce, which may be necessary or appropriate under applicable law to maintain the Marks.

(ii) In Borrower's reasonable business judgment, to file new applications to register and protect under applicable law all Marks for which applications have not previously been filed or to take all reasonable actions to successfully prosecute all pending applications for Marks that are now or which may be or become subject to this

Security Agreement and to take all other actions necessary to cause registrations for Marks to be issued as a result of said applications.

(iii) To protect the Marks from infringement, unfair competition or dilution or damage by all appropriate actions, in Borrower's reasonable business judgment, which may include the commencement of legal action to prevent and recover damages for said infringement and to defend such Marks from claims of infringement, unfair competition or damage, including by defending any legal actions based upon such claims.

(b) Borrower further hereby represents and warrants to the Lender as follows:

(i) Borrower has the requisite power, right and authority to execute and deliver this Security Agreement.

(ii) Borrower holds all right, title and interest in the Marks, has the authority to collaterally assign its interest in and to the Marks, has not sold, assigned, transferred, mortgaged or pledged any such right or interest in the Marks to any Person other than the Lender and has not executed any other document or instrument that might prevent or limit the Lender from operating under or realizing the benefits of the terms, conditions and provisions of this Security Agreement.

(iii) No authorizations, consents, approvals, licenses, permits, filings or registrations with any Governmental Authority or agency are necessary for the execution, delivery or performance by Borrower of this Security Agreement or for the validity or enforceability thereof.

Section 5. Reports to Borrower. Borrower agrees, at Lender's request (not to be made more frequently than annually) to provide written reports to Lender stating: a) the status of all Marks subject to this Security Agreement, including any new registrations, applications or licenses; and b) any actions taken by Borrower pursuant to Section 4 of this Security Agreement. Moreover, if the Borrower files an application with the United States Patent and Trademark Office for any of the Marks other than those listed on Exhibit A hereto or if any of the Marks become registered after the date hereof, the Borrower shall notify the Lender of such application or registration within one month of its occurrence in order to permit timely filing of an update to this Security Agreement with the applicable trademark office and agrees to execute any documents necessary to make such a filing.

Section 6. Updates to Security Agreement. For the avoidance of doubt and in no way limiting the rights granted to the Lender in Section 3 of this Security Agreement, if Borrower shall obtain rights to or become entitled to the benefit of any of the Marks after the date hereof before its obligations to Lender as set forth in this Security Agreement have been satisfied in full, the provisions of this Security Agreement shall automatically apply thereto and Borrower hereby authorizes Lender to modify or update this Security Agreement accordingly.

Section 7. Attorney-in-Fact. Effective upon the occurrence, and only during the continuance, of an Event of Default, the Lender is hereby appointed the attorney-in-fact of Borrower for the purpose of carrying out the provisions of this Security Agreement and taking any action and executing any instruments which the Lender may deem necessary or advisable to

accomplish the purposes hereof, including, without limitation, the right to any action Lender may deem necessary with respect to the Marks, including but not limited to the assignment of all the Marks from Borrower to Lender or the signing and filing of any financing statement (or amendment or extension thereof) deemed necessary by the Lender in connection herewith although the same has been signed only by the Lender, which appointment as attorney-in-fact is irrevocable and coupled with an interest.

**Section 8. Security Agreement.**

(a) This Security Agreement shall constitute a security agreement, as that term is used in the UCC. The Lender shall have, in addition to all other rights and remedies provided herein or in any other Loan Document, in law, at equity or otherwise, all rights and remedies of a secured party under the UCC. Without limiting Section 7, effective upon the occurrence, and only during the continuance, of an Event of Default, the Lender may at its sole discretion assign, license or otherwise transfer or dispose of the Marks in any manner whatsoever together with or apart from the other Collateral to the extent allowed by applicable law. After deducting all expenses incurred in connection with the enforcement of its rights hereunder, the Lender shall cause the proceeds arising from an action the Lender may take with respect to the Marks to be applied to the payment of the Secured Obligations in such order as the Lender may determine, and the Borrower, subject to the terms of the other Loan Documents, shall remain liable for any deficiency.

(b) Prior to or concurrently with the execution and delivery of this Security Agreement, and from time to time thereafter as reasonably requested by the Lender, Borrower shall file such financing statements and other documents in such offices, including the United States Patent and Trademark Office, as the Lender may request to perfect the security interests granted by this Security Agreement and the other Loan Documents. The Borrower shall pay reasonable costs of, or incidental to, any such filing of this Security Agreement, including but not limited to costs associated with filings with the United States Patent and Trademark Office and any recording or filing of any UCC financing or continuation statements or other documents recorded or filed pursuant hereto.

**Section 9. Expenses.** If any suit or other proceeding is instituted by the Lender to enforce this Security Agreement (or any portion hereof), Borrower shall pay, upon demand, all actual reasonable out-of-pocket costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Lender in connection therewith. The obligations of Borrower under this Section 9 shall survive the expiration or termination of this Security Agreement.

**Section 10. Reinstatement.** This Security Agreement and the security interest created hereunder shall automatically be reinstated if and to the extent that for any reason any payment by or on behalf of Borrower in respect of the Secured Obligations is rescinded or must otherwise be restored by Lender, whether as a result of any proceedings in bankruptcy or reorganization or otherwise and Borrower shall indemnify the Lender on demand for all actual reasonable costs and expenses (including, without limitation, reasonable attorneys' fees and disbursements) incurred by the Lender in connection with such rescission or restoration.

Section 11. Miscellaneous.

(a) No Waiver. No failure on the part of the Lender or any of its agents to exercise, and no course of dealing with respect to, and no delay in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise by the Lender or any of its agents of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The remedies herein are cumulative and are not exclusive of any remedies provided by law.

(b) Governing Law. This Security Agreement shall be governed by the law of the State of New York.

(c) Severability. If any provision hereof is invalid or unenforceable in any jurisdiction, then, to the fullest extent permitted by law, (i) the other provisions hereof shall remain in full force and effect in such jurisdiction and shall be liberally construed in favor of the Lender in order to carry out the intentions of the parties hereto as nearly as may be possible, and (ii) the invalidity or unenforceability of any provision hereof in any jurisdiction shall not affect the validity or enforceability of such provision in any other jurisdiction.

(d) Cumulative Remedies. All rights and remedies set forth in this Security Agreement are cumulative, and the Lender may recover judgment thereon, issue execution therefor, and resort to every other right or remedy available at law or in equity, without first exhausting and without affecting or impairing the security of any right or remedy afforded hereby; and no such right or remedy set forth in this Security Agreement shall be deemed exclusive of any of the remedies or rights granted to the Lender in the Note, the Deed of Trust, the Loan Agreement or any other document. Nothing contained in this Security Agreement shall be deemed to limit or restrict the rights and remedies of the Lender under any other document related to the Secured Obligations.

(e) Waivers, Etc. This Security Agreement may not be amended, modified, supplemented, waived or discharged except by an instrument in writing duly executed by Borrower and the Lender. The Lender may elect to waive by an instrument in writing any of its rights hereunder from time to time without permanently waiving any such right by virtue of any single such waiver or being obligated so to waive such right (or any other right) in any future similar or dissimilar circumstances.

(f) Successors and Assigns. This Security Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and their respective permitted successors and assigns.

(g) Notice. All notices, requests and other communications provided for herein shall be given or made in writing in the manner specified in the Loan Agreement.

(h) Headings. Headings used in this Security Agreement are for convenience of reference only and do not constitute part of this Security Agreement for any purpose.

(i) WAIVER OF JURY TRIAL. TO THE FULLEST EXTENT PERMITTED BY LAW, EACH PARTY HEREBY IRREVOCABLY WAIVES TRIAL BY JURY IN ANY

ACTION OR PROCEEDING BROUGHT BY THE OTHER PARTY INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR IN CONNECTION WITH THIS GRANT OF SECURITY INTEREST.

(j) Counterparts. This Security Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and either of the parties hereto may execute this Security Agreement by signing any such counterpart.

(k) Inconsistency with Loan Agreement. If there shall be any inconsistencies between the terms, covenants, conditions and provisions set forth in this Security Agreement and terms, covenants, conditions and provisions set forth in the Loan Agreement, then, unless this Security Agreement expressly provides otherwise, the terms, covenants, conditions and provisions of the Loan Agreement shall prevail. All obligations under this Security Agreement shall be limited by the provisions of Section 9.19 of the Loan Agreement, the provisions of which are incorporated herein by this reference.

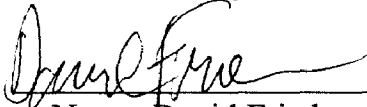


IN WITNESS WHEREOF, the undersigned has executed this Security Agreement  
the day and year first written above.

**BORROWER:**

**GRAND CANAL SHOPS II, LLC,**  
a Delaware limited liability company

By: **Grand Canal Shops Mall MM Subsidiary, Inc,**  
a Nevada corporation, its managing member

By:  \_\_\_\_\_  
Name: **David Friedman**

Title: **Secretary**

**Schedule A**

<b>Mark</b>	<b>Applicant/Owner</b>	<b>Serial or Registration Number</b>	<b>International Class</b>
GRAND CANAL SHOPPES	Grand Canal Shops II, LLC	2528490	41
GRAND CANAL SHOPPES	Grand Canal Shops II, LLC	2527712	35
THE GRAND CANAL	Grand Canal Shops II, LLC	2532906	41
Miscellaneous Design	Grand Canal Shops II, LLC	2404897	35
Miscellaneous Design	Grand Canal Shops II, LLC	2417906	42
Miscellaneous Design	Grand Canal Shops II, LLC	2358232	41
GRAND CANAL SHOPPES	Grand Canal Shops II, LLC	75/670927	36
THE GRAND CANAL	Grand Canal Shops II, LLC	75/136424	41
THE GRAND CANAL SHOPPES & Design	Grand Canal Shops II, LLC	76/321994	41
THE GRAND CANAL SHOPPES & Design	Grand Canal Shops II, LLC	76/260393	35
THE GRAND CANAL SHOPPES & Design	Grand Canal Shops II, LLC	76/260006	42
THE GRAND CANAL SHOPS	Grand Canal Shops II, LLC	75/511636	36
GRAND CANAL SHOPPES	Grand Canal Shops II, LLC	NV3000013039 (Nevada State)	41
GRAND CANAL SHOPPES	Grand Canal Shops II, LLC	NV3000013038 (Nevada State)	42
GRAND CANAL SHOPPES	Grand Canal Shops II, LLC	NV3000013037	35
THE GRAND CANAL SHOPS	Grand Canal Shops II, LLC	NV3000011234 (Nevada State)	36
Miscellaneous Design	Grand Canal Shops II, LLC	882209 (European Union)	35, 41, 42