

10-08-2003

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

OFFICE OF PUBLIC RECORDS



2003 OCT -6 AM 11:26

102570949

To the Honorable Commissioner of Patents and Trademarks. Please record the attached original document hereof.

FINANCE SECTION 10-6-03

1. Name of conveying party(ies):
SUTTON PLACE GOURMET, INC.

Individual(s) Association
 General Partnership Limited Partnership
 Corporation - State of Delaware
 Other

Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies):
 Name: FINOVA CAPITAL CORPORATION
 Internal Address: _____
 Street Address: 1000 First Avenue, 1st Floor
 City: King of Prussia State Pennsylvania ZIP: 19406

Individual(s) citizenship
 Association
 General Partnership
 Limited Partnership
 Corporation-State of Delaware
 Other

3. Nature of conveyance:
 Assignment Merger
 Security Agreement Change of Name
 Other Amendment to Trademark Security Agreement

Execution Date: September 29, 2003

If assignee is not domiciled in the United States, a domestic representative designation is attached:
 Yes No
 (Designation must be a separate document from Assignment)
 Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):
 A. Trademark Application No(s).

B. Trademark registration No(s).

1,423,066
~~2,073,705~~
2,077,420
2,079,106
2,079,105
2,398,193
2,406,529

Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:
 Name: Cathryn A. Berryman
Jenkins & Gilchrist, a Professional Corporation
 Internal Address: _____
 Street Address: 1445 Ross Avenue, Suite 3200
 City: Dallas State: Texas Zip: 75202-2799

6. Total number of applications and registrations involved: 7

7. Total fee (37 CFR 3.41): \$ 190.00
 Enclosed
 Authorized to be charged to deposit account.

(If check is not received with this correspondence or additional fees are required, please charge to deposit account 10-0447.)

8. Deposit Account number: _____
 (Attach duplicate copy of this page if paying by deposit account)

9. Statement and signature.

DO NOT USE THIS SPACE

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.

Cathryn A. Berryman
 Name of Person Signing

Cathryn Berryman
 Signature

10-3-03
 Date

Total number of pages comprising cover sheet: **-1-**

AMENDMENT TO TRADEMARK SECURITY AGREEMENT

This AMENDMENT TO TRADEMARK AND SECURITY AGREEMENT is dated as of September 29, 2003 by and between SUTTON PLACE GOURMET, INC., a Delaware Corporation, ("Borrower"), having its principal office at 6903 Rockledge Drive, Suite 900, Bethesda, Maryland 20817, and FINOVA CAPITAL CORPORATION, a Delaware corporation ("Secured Party"), having an office at 1000 First Avenue - 1st Floor, King of Prussia, Pennsylvania 19406.

WITNESSETH:

WHEREAS, Secured Party has entered into (a) that certain Loan and Security Agreement dated as of December 20, 1996 (as the same has been amended, modified and supplemented sometimes collectively hereinafter referred to as the "December 1996 Loan Agreement" and (b) that certain Loan and Security Agreement dated as of June 22, 1999 (as the same has been amended, modified and supplemented sometimes collectively hereinafter referred to as the "June 1999 Loan Agreement"; the December 1996 Loan Agreement and the June 1999 Loan Agreement are referred to individually as a "Loan and Security Agreement" and collectively as the "Loan and Security Agreements") (all capitalized terms which are used herein and which are defined in the Loan and Security Agreements and not otherwise defined herein, shall have the respective meanings ascribed thereto in the Loan and Security Agreements);

WHEREAS, Secured Party and Borrower have entered into that certain Trademark Security Agreement dated as of June 22, 1999 (the "Trademark Security Agreement"); and

WHEREAS, Secured Party has agreed to enter into or has entered into (a) that certain Amendment, Waiver and Consent Agreement with respect to the December 1996 Loan Agreement and (b) that certain Amendment, Waiver and Consent Agreement with respect to the June 1999 Loan Agreement (collectively, the "Amendments", and together with the Loan and Security Agreements, the Trademark Security Agreement, this Agreement and all other related documents, agreements, instruments or notes, as the same may now exist or may hereafter be amended or supplemented, are collectively referred to as the "Agreements").

NOW, THEREFORE, in order to induce Secured Party to enter into the Amendments and in consideration thereof, Borrower and Secured Party agree as follows:

1. Amendments to Trademark Security Agreement. The Trademark Security Agreement is hereby amended as follows:

(a) SCHEDULE A is amended to add the following:

TRADEMARK	COUNTRY	REG. NO.	REG. DATE
SUTTON PLACE GOURMET	United States	2,398,193 (Ser. No. 78/128,209)	10/24/00
ARTICHOKE DESIGN	United States	2,406,529 (Ser. No. 75/111,385)	11/21/00

The registrations for the marks SUTTON PLACE GOURMET and design (Registration Number 1,890,019) and SUTTON ON THE RUN (Registration Number 1,965,687) have been cancelled because of Borrower's non-use of the marks in accordance with the last sentence of Section 3.J. of the Trademark Security Agreement.

Borrower has ceased to use the common law mark CLEAR WATER MARKET in accordance with the last sentence of Section 3. J. of the Trademark Security Agreement.

(b) SCHEDULE B is amended to add the following:

<u>Party</u>	<u>Nature of Agreement</u>
Sky Chefs, Inc. d/b/a LSG Sky Chefs	Use of mark and logo in food sales
Blue Ridge Farms	Use of mark and logo in food sales

2. Acknowledgment and Confirmation. Borrower confirms that all references in the Trademark Security Agreement to "this Agreement" shall, without limitation, be deemed to refer to the Trademark Security Agreement, as amended hereby.

3. Representations, Covenants and Warranties. Borrower hereby represents, covenants and warrants to Secured Party that:

(a) Each of the representations and warranties set forth in Section 3 of the Trademark Security Agreement, after giving effect to the terms of this Agreement, is true in all respects as of the date hereof.

(b) As of the date hereof, after giving effect to the terms of this Agreement, there exists no default or Event of Default under the Trademark Security Agreement.

(c) Borrower has the power to execute, deliver and perform this Agreement and the documents executed or contemplated to be executed in connection herewith. Borrower has taken all necessary action to authorize the execution, delivery and performance of this Agreement and any documents executed or contemplated to be executed in connection herewith.

No consent or approval of any entity or Person (including, without limitation, any shareholder of Borrower) no waiver of any Lien or right of distraint or other similar right and no consent, license, approval, authorization or declaration of any governmental authority, bureau or agency, is required in connection with the execution, delivery or performance by Borrower, or the validity or enforcement, of this Agreement or any documents executed or contemplated to be executed in connection herewith.

(d) The execution and delivery by Borrower of this Agreement and any documents executed or contemplated to be executed in connection herewith and performance by it hereunder and thereunder, will not violate any provision of law and will not conflict with or result in a breach of any order, writ, injunction, ordinance, resolution, decree, or other similar document or instrument of any court or governmental authority, bureau or agency, domestic or foreign, or the certificate of incorporation or by-laws of Borrower, or create (with or without the giving of notice or lapse of time, or both) a default under or breach of any agreement, bond, note or indenture to which Borrower is a party, or by which it is bound or any of its properties or assets is affected, or result in the imposition of any Lien of any nature whatsoever upon any of the properties or assets owned by or used in connection with the business of Borrower, other than the Liens contemplated by this Agreement.

(e) This Agreement and the documents executed in connection herewith have been duly executed and delivered by Borrower and constitute the valid and legally binding obligation of Borrower, enforceable in accordance with their respective terms.

4. Further Assurances and Agreements.

Borrower agrees that it will (or cause third parties to), from time to time, execute and/or deliver and record (if requested by Secured Party) all agreements, instruments and documents and do and perform all actions and things as Secured Party shall reasonably request to confirm as the continued validity and first priority perfection of all security interests and Liens granted pursuant to this Agreement, including, without limitation, the first priority perfected Liens covering the Trademarks, including, without limitation, the Trademarks added to Schedule A by this Agreement (the "Additional Trademarks"). Without limiting the foregoing, Borrower agrees to (or cause third parties to) execute, deliver and record at the U.S. Patent and Trademark Office or otherwise all agreements, instruments and documents reasonably requested by Secured Party to continue and confirm Secured Party's first priority perfected security interests in the Trademarks and the Additional Trademarks. All of the actions set forth in this Paragraph 5 shall be performed at Borrower's expense.

5. Miscellaneous.

(a) Except as specifically amended herein, the Trademark Security Agreement shall remain in full force and effect in accordance with their respective terms.

(b) No modification or waiver of or with respect to any provision of this Agreement and all other agreements, instruments and documents delivered pursuant hereto or referred to herein, nor consent to any departure by any party hereto or thereto from any of the terms or conditions hereof or thereof, shall in any event be effective, unless it shall be in writing

and signed by each party hereto, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

(c) This Agreement, together with all of the other agreements, instruments and documents referred to herein, embodies the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and thereof and supersedes all prior agreements and understandings relating to the subject matter hereof.

(d) Borrower shall pay all of Secured Party's costs, expenses and reasonable fees incurred in connection with this Agreement and the transactions contemplated hereby, including, without limitation, Secured Party's legal fees and expenses incurred in connection with the preparation and, if required, the enforcement, of this Agreement.

(e) This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

(f) Secured Party represents and warrants to Borrower that the execution of this Agreement and the transactions contemplated hereby are in the ordinary course of Secured Party's business.

(g) BORROWER WAIVES ITS RIGHT TO A TRIAL BY JURY, IF ANY, IN ANY ACTION TO ENFORCE, DEFEND, INTERPRET OR OTHERWISE CONCERNING THIS AGREEMENT AND THE DOCUMENTS EXECUTED IN CONNECTION HEREWITH.

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement on the date first above written.

SUTTON PLACE GOURMET, INC.,
a Delaware corporation

By: *Gary J. Evans*
Name: GARY J. EVANS
Title: CEO

Federal Tax Identification No. 52-1191889

FINOVA CAPITAL CORPORATION

By: _____
Name: _____
Title: _____

and signed by each party hereto, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given.

(c) This Agreement, together with all of the other agreements, instruments and documents referred to herein, embodies the entire agreement and understanding among the parties hereto with respect to the subject matter hereof and thereof and supersedes all prior agreements and understandings relating to the subject matter hereof.

(d) Borrower shall pay all of Secured Party's costs, expenses and reasonable fees incurred in connection with this Agreement and the transactions contemplated hereby, including, without limitation, Secured Party's legal fees and expenses incurred in connection with the preparation and, if required, the enforcement, of this Agreement.

(e) This Agreement may be signed in any number of counterparts with the same effect as if the signatures thereto and hereto were upon the same instrument.

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(g) BORROWER WAIVES ITS RIGHT TO A TRIAL BY JURY, IF ANY, IN ANY ACTION TO ENFORCE, DEFEND, INTERPRET OR OTHERWISE CONCERNING THIS AGREEMENT AND THE DOCUMENTS EXECUTED IN CONNECTION HEREWITH

IN WITNESS WHEREOF, the undersigned have duly executed this Agreement on the date first above written

SUTTON PLACE GOURMET, INC.,
a Delaware corporation

By _____
Name _____
Title _____

Federal Tax Identification No 52-1191889

FINOVA CAPITAL CORPORATION

By Michael J. McAuley
Name Michael J. McAuley
Title Vice President