

08-11-2005

Form PTO-1594 (Rev. 06/04)  
OMB Collection 0651-0027 (exp. 6/30/2005)

DEPARTMENT OF COMMERCE  
Patent and Trademark Office



RECORDED  
TRADEMARKS ONLY  
103060049

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

1. Name of conveying party(ies)/Execution Date(s):

WM. K. Walthers, Inc.

- Individual(s)
- General Partnership
- Corporation-State
- Other \_\_\_\_\_
- Association
- Limited Partnership

Citizenship (see guidelines) Wisconsin

Execution Date(s) July 11, 2005

Additional names of conveying parties attached?  Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other \_\_\_\_\_
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached?  Yes  No

Name: M&I Marshall & Ilsley Bank

Internal

Address: \_\_\_\_\_

Street Address: 770 North Water Street

City: Milwaukee

State: Wisconsin

Country: USA Zip: 53202

- Association Citizenship \_\_\_\_\_
- General Partnership Citizenship \_\_\_\_\_
- Limited Partnership Citizenship \_\_\_\_\_
- Corporation Citizenship Wisconsin
- Other \_\_\_\_\_ Citizenship \_\_\_\_\_

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)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

See Attached

Additional sheet(s) attached?  Yes  No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

See Attached

5. Name & address of party to whom correspondence concerning document should be mailed:

Name: Angela Serio

Internal Address: Michael Best & Friedrich LLP  
Suite 3300

Street Address: 100 East Wisconsin Avenue

City: Milwaukee

State: Wisconsin Zip: 53202

Phone Number: 414-225-2789

Fax Number: 414-277-0656

Email Address: amserio@michaelbest.com

6. Total number of applications and registrations involved:

5

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$ 200.00

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

a. Credit Card Last 4 Numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number \_\_\_\_\_  
Authorized User Name \_\_\_\_\_

9. Signature: Angela M. Serio  
Signature

8/5/05  
Date

Angela M. Serio, Paralegal

Total number of pages including cover sheet, attachments, and document: 12

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

08/10/2005 ECDOPER 00000050 2012942

01 FC:8521

40.00 DP

02 FC:8522

100.00 DP

Refund Ref: 08/10/2005 ECDOPER 0000146336

CHECK Refund Total: 466.00

TRADEMARK  
REEL: 003205 FRAME: 0921

WM. K. Walther, Inc.

Attachment – Recordation Form Cover Sheet

Trademark Registration Nos. & Description

2012942	THE MODEL RAILROAD MALL
1947462	TRAINLINE
1611402	CORNERSTONE SERIES
1036500	GOO
0695878	GOO & Design

## TRADEMARK SECURITY AGREEMENT

THIS TRADEMARK SECURITY AGREEMENT (this "Security Agreement") is made as of this 11<sup>th</sup> day of July, 2005, by WM. K. WALTHERS, INC., a Wisconsin corporation (the "Debtor"), with its principal offices located at 5601 W. Florist Avenue, Milwaukee, Wisconsin 53218, in favor of M&I MARSHALL & ILSLEY BANK, with offices located at 770 North Water Street, Milwaukee Wisconsin 53202 (the "Secured Party").

### WITNESSETH

WHEREAS, concurrently herewith, the Debtor and Secured Party have entered into that certain Credit Agreement (the "Credit Agreement") and the Related Documents (as that term is defined in the Credit Agreement; the Related Documents collectively with the Credit Agreement, as each may be restated, amended, modified or supplemented from time to time hereafter, the "Financing Agreements");

WHEREAS, Debtor is the owner of certain trademarks; and

WHEREAS, it is a condition precedent to the Secured Party entering into the Credit Agreement that Debtor grant to Secured Party a security interest in all of the Debtor's assets, including, without limitation, its trademarks and trademark applications.

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Debtor agrees as follows:

1. Incorporation of the Financing Agreements. The Financing Agreements and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto. All terms capitalized but not otherwise defined herein shall have the same meanings assigned to them in the Credit Agreement.

2. Certain Defined Terms. As used in this Security Agreement, the following terms shall have the following meanings:

"Trademark" shall have the meaning set forth in Section 3.

"UCC" shall mean the Uniform Commercial Code as now enacted or hereafter in effect in the State of Wisconsin, which is on the date of this Agreement set forth in Chapters 401-411 of the Wisconsin Statutes; provided, however, in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of Secured Party's security interest in any collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of Wisconsin, the term "UCC" shall mean the Uniform Commercial Code as in effect in such other jurisdiction solely for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

"USPTO" shall mean the United States Patent and Trademark Office.

3. Grant and Reaffirmation of Grant of Security Interests. To secure the complete and timely payment and satisfaction of the Obligations, Debtor hereby grants to Secured Party, and hereby reaffirms its prior grant pursuant to the Financing Agreements of, a continuing first priority security interest in Debtor's entire right, title and interest in and to all of its now owned or existing and hereafter acquired or arising trademarks, trade names, corporate names, company names, business names, fictitious business names, trade styles, service marks, logos, other business identifiers, prints and labels on which any of the foregoing have appeared or appear, all registrations and recordings thereof, and all applications (other than "intent to use" applications until a verified statement of use is filed with respect to such applications) in connection therewith, including, without limitation, the trademarks and applications listed on Schedule A and Schedule B, respectively, which are attached hereto and made a part hereof and the trademarks, and renewals thereof, and all income, royalties, damages and payments now or hereafter due and/or payable under or with respect to any of the foregoing, including, without limitation, damages and payments for past, present and future infringements of any of the foregoing and the right to sue for past, present and future infringements of any of the foregoing (all of the foregoing are sometimes hereinafter individually and/or collectively referred to as the "Trademarks"); and all rights corresponding to any of the foregoing throughout the world and the goodwill of the Debtor's business connected with the use of and symbolized by the Trademarks.

4. Supplement to Credit Agreement. This Security Agreement has been entered into in conjunction with the security interests granted to Secured Party under the Financing Agreements. The rights and remedies of Secured Party with respect to the security interests granted herein are without prejudice to, and are in addition to those set forth in the Financing Agreements, all terms and provisions of which are incorporated herein by reference.

5. Debtor Representations and Warranties. Debtor continuously represents and warrants to Secured Party that:

(i) A true and correct list of all of Debtor's United States registered Trademarks and Trademark registrations is set forth in Schedule A;

(ii) A true and correct list of all of Debtor's United States applications for Trademark registrations is set forth in Schedule B (other than "intent to use" applications until a verified statement of use is filed with respect to such applications);

(iii) No Trademark has been adjudged invalid or unenforceable by a court of competent jurisdiction nor has any such Trademark been cancelled, in whole or in part and each such Trademark is presently subsisting;

(iv) Debtor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each Trademark, free and clear of any liens, charges and encumbrances, including without limitation, shop rights and covenants by Debtor not to sue third persons, except for Permitted Liens;

(v) Debtor has no notice of any suits or actions commenced or threatened with reference to any Trademark; and

(vi) Debtor has the unqualified right to execute and deliver this Security Agreement and perform its terms.

6. Further Acts. On a continuing basis, Debtor shall make, execute, acknowledge and deliver, and file and record in the proper filing and recording places, all such instruments and documents, and take all such action as may be necessary or advisable or may be requested by Secured Party to carry out the intent and purposes of this Security Agreement, or for assuring, confirming or protecting the grant or perfection of the security interest granted or purported to be granted hereby, to ensure Debtor's compliance with this Security Agreement or to enable Secured Party to exercise and enforce its rights and remedies hereunder with respect to the Trademarks, including any documents for filing with the USPTO or any applicable state office. Secured Party may record this Security Agreement, an abstract thereof, or any other document describing Secured Party's interest in the Trademarks with the USPTO, at the expense of Debtor. In addition, Debtor authorizes Secured Party to file financing statements describing the Trademarks in any UCC filing office deemed appropriate by Secured Party. If the Debtor shall at any time hold or acquire a commercial tort claim arising with respect to the Trademarks, the Debtor shall immediately notify Secured Party in a writing signed by the Debtor of the brief details thereof.

7. Restrictions on Future Agreements. Debtor agrees that until its Obligations shall have been satisfied in full and the Financing Agreements shall have been terminated, Debtor shall not, without the prior written consent of Secured Party, sell or assign its interest in any Trademark or enter into any other agreement with respect to any Trademark which would affect the validity or enforcement of the rights transferred to Secured Party under this Security Agreement, in each case excluding sales or assignments of Trademarks permitted in accordance with the terms of any Financing Agreements.

8. New Trademarks. Debtor represents and warrants that the Trademarks listed on Schedule A constitute all of the federally registered Trademarks, and Schedule B lists all of the federal applications for registration of Trademarks (other than "intent to use" applications until a verified statement of use is file with respect to such applications) now owned by Debtor. If Debtor shall (i) become aware of any existing Trademarks of which Debtor has not previously informed Secured Party, (ii) initiate any federal applications for registration of new Trademarks, or (iii) become entitled to the benefit of any Trademarks, which benefit is not in existence on the date hereof, the provisions of this Security Agreement shall automatically apply thereto and Debtor shall give to Secured Party prompt written notice thereof. Debtor hereby authorizes Secured Party to modify this Security Agreement by amending Schedule A or Schedule B, as the case may be, to include any such Trademarks or federal applications for registration of Trademarks. Notwithstanding the foregoing, no failure to so modify this Security Agreement or amend Schedule A or Schedule B shall in any way affect, invalidate or detract from Secured Party's continuing security interest in all Collateral, whether or not listed on Schedule A or Schedule B.

9. Royalties. Debtor agrees that upon the occurrence and during the continuance of an Event of Default, the use by Secured Party of all Trademarks shall be without any liability for royalties or other related charges from Secured Party to Debtor.

10. Product Quality. Debtor agrees to maintain the quality of any and all products in connection with which the Trademarks are used, consistent with commercially reasonable business practices. Upon the occurrence and during the continuance of an Event of Default, Debtor agrees that Secured Party, or a conservator appointed by Secured Party, shall have the right to establish such additional product quality controls as Secured Party, or said conservator may deem necessary to assure maintenance of the quality of products sold by Debtor under the Trademarks.

11. Release of Security Agreement. This Security Agreement is made for collateral purposes only. This Security Agreement, the security interests created or granted hereby, and all obligations of Debtor hereunder shall terminate when the Obligations shall have been fully paid and satisfied and the Financing Agreements shall have been terminated. Secured Party shall take such actions as may be necessary or proper to terminate the security interests created hereby and pursuant to the Financing Agreements, including, without limitation, terminating any such security interests in any Trademarks sold or assigned in accordance with the provisions of any Financing Agreement.

12. Expenses. All expenses incurred in connection with the performance of any of the agreements set forth herein shall be borne by Debtor. All reasonable fees, costs and expenses, of whatever kind or nature, including reasonable attorneys' fees and legal expenses, incurred by Secured Party in connection with the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, reasonable counsel fees, maintenance fees, encumbrances or otherwise in protecting, maintaining or preserving the Trademarks or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks shall be borne by and paid by Debtor and until paid shall constitute Obligations.

13. Debtor Duties. Debtor shall have the duty (i) to file and prosecute diligently any trademark applications pending as of the date hereof or hereafter until Debtor's Obligations shall have been paid in full and the Financing Agreements have been terminated, (ii) to preserve and maintain all rights in the Trademarks, as commercially reasonable and (iii) to ensure that the Trademarks are and remain enforceable, as commercially reasonable, in each case except for Trademarks and applications for Trademarks that Debtor reasonably determines are no longer material to its business. Any expenses incurred in connection with Debtor's Obligations under this Section 13 shall be borne by Debtor.

14. Rights Upon Default. In addition to any other rights that the Secured Party may have with respect to the Financing Agreements, from and after the occurrence and during the continuance of an Event of Default, Secured Party shall also have the right, but shall in no way be obligated, to bring suit in its own name to enforce the Trademarks and, if Secured Party shall commence any such suit, Debtor shall, at the request of Secured Party, do any and all lawful acts and execute any and all proper documents required by Secured Party in aid of such enforcement and Debtor shall promptly, upon demand, reimburse and indemnify Secured Party for all costs and expenses incurred by Secured Party in the exercise of its rights under this Section 14.

15. No Waiver; Amendments. Secured Party shall not, by any act, course of dealing, delay, omission or otherwise, be deemed to have waived any of its rights, powers, privileges or remedies hereunder. A waiver or partial waiver of any right or remedy hereunder on any one occasion shall not be construed as a bar to any right or remedy which Secured Party would otherwise have had on any future occasion. No amendment, modification, alteration, or waiver of the terms of this Security Agreement or consent required under the terms of this Security Agreement shall be effective unless made as specifically provided in Section 8 hereof or by a writing signed by the parties hereto. Any such amendment, modification, alteration, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.

16. Appointment of Attorney-In-Fact. Debtor hereby irrevocably authorizes Secured Party upon the occurrence and during the continuance of an Event of Default, to constitute and appoint any officer or agent of Secured Party as Secured Party may select, in its sole discretion, with full power of substitution, as Debtor's true and lawful attorney-in-fact, with full irrevocable power and authority (i) to endorse Debtor's name on all applications, documents, papers and instruments necessary or desirable for Secured Party in the use of the Trademarks, (ii) to take any other actions with respect to the Trademarks as Secured Party deems to be in its best interest, (iii) grant or issue any exclusive or non-exclusive license under the Trademarks to anyone, or (iv) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone. Debtor hereby ratifies, to the extent permitted by law, all that said attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is a power coupled with an interest and shall be irrevocable until Debtor's Obligations shall have been paid in full and the Financing Agreements have been terminated.

17. Remedies; Effect on Financing Agreements. All of Secured Party's rights and remedies with respect to the Trademarks, whether established hereby or by the Financing Agreements, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Debtor acknowledges and agrees that this Security Agreement is not intended to limit or restrict in any way the rights and remedies of Secured Party under the Financing Agreements but rather is intended to facilitate the exercise of such rights and remedies. Secured Party shall have, in addition to all other rights and remedies given it by the terms of this Security Agreement and the Financing Agreements, all rights and remedies allowed by law and the rights and remedies of a secured party under the UCC.

18. Binding Effect; Benefits. The provisions of this Security Agreement shall inure to the benefit of Secured Party, its successors, nominees and assigns, and be binding upon Debtor and its permitted successors and assigns.

19. Governing Law. This Security Agreement shall be governed by the internal laws of the State of Wisconsin.

20. Survival of Representations. All agreements, covenants, representations and warranties made herein shall survive the execution and delivery of this Security Agreement and shall be remade on the date of each borrowing under the Financing Agreements.

21. Severability. Whenever possible, each provision of this Security Agreement shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Security Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Security Agreement to the fullest extent permitted by applicable law.

22. Notices. All notices and other communications hereunder shall be in writing and shall be mailed, sent or delivered in accordance with the Credit Agreement.

23. Recitals; Headings. The Recitals to this Security Agreement are true and correct and are hereby incorporated into this Security Agreement by this reference. The descriptive headings in this Security Agreement are inserted for convenience of reference only and shall not affect the construction of this Security Agreement.

**[SIGNATURE PAGE FOLLOWS]**



IN WITNESS WHEREOF, Debtor has executed this Security Agreement as of the date first above written.

WM. K. WALTHERS, INC.

By: J P Walther  
Name: J PHILIP WALTHERS  
Its: PRESIDENT

Agreed and Accepted  
As of the Date First Written Above

M&I MARSHALL & ILSLEY BANK

By: Eric L. Thomas  
Name: ERIC L. THOMAS  
Its: VICE PRESIDENT

**SCHEDULE A**

**TRADEMARK REGISTRATIONS**

Trademark Description

U.S. Serial/Registration No.

Date Registered

**SCHEDULE B**

**TRADEMARK APPLICATIONS**

Trademark Application  
Description

U.S. Application No.

Date Applied

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**TRADEMARK REPORT**

Wm. K. Walthers

Trademark	Registration No. (Application No.)	Issue/Filing Date	Next Action Due	
1. THE MODEL RAILROAD MALL	2012942	10/29/1996	Renewal due 10/29/2006	
2. TRAINLINE	1947462	01/09/1996	Renewal due 01/09/2006	
3. CORNERSTONE SERIES	1611402	08/28/1990	Renewal due 08/28/2010	
4. GOO	1036500	03/30/1976	Renewal due 03/30/2006	
5. GOO & Design	0695878	04/12/1960	Renewal due 04/12/2010	

TRADEMARK

REEL: 003205 FRAME: 0932

RECORDED: 08/05/2005