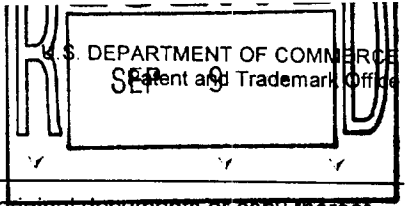


09-16-1998

SHEET



OMB No. 0651-0011 (exp. 4/94)



-Y

100828844

9-9-98 Lab Settings

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

1. Name of conveying party(ies):  
JDB & Associates, Inc.

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

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

3. Nature of conveyance:

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

Execution Date: December 11, 1997

Effective Date: December 11, 1997

2. Name and address of receiving party(ies):

Name: Sand Hill Capital LLC

Internal Address: Building 2

Street Address: 3000 Sand Hill Road, Suite 110

City: Menlo Park State: CA ZIP: 94025

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

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

4. Application number(s) or registration number(s)

A. Trademark Application No.(s)

B. Trademark Registration Nos.(s)

1,714,369  
1,716,751

Additional numbers attached?  Yes  No

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

Name: Jamie R. Shelden

Internal Address: Hopkins & Carley

Street Address: PO Box 1469

City: San Jose State: CA ZIP: 95109

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41)..... \$ 65.00

- Enclosed
- Authorized to be charged to deposit account in the event there is a deficiency or overpayment.

8. Deposit account number:

08-2782

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

09/15/1998 SSMITH 00000001 1714369

01 FC:481 40.00 OP  
02 FC:482 25.00 OP

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.*

Jamie R. Shelden, Esq.

Jamie Shelden  
Signature

9/8/98  
Date

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

7

## LOAN AGREEMENT

\$520,000

Menlo Park, California  
Date: December 11, 1997

The undersigned J.D.B. & ASSOCIATES, INC. dba Bank Up ("Borrower"), for value received, hereby promises to pay to SAND HILL CAPITAL, LLC ("Sand Hill") at such place as Sand Hill may specify, in lawful money of the United States of America, (i) the principal amount of \$520,000 or, if lower, (ii) the principal amount of all outstanding advances ("Advances") that Sand Hill makes hereunder, plus interest on the principal amount hereof from time to time outstanding at a rate equal to Eighteen Percent (18%) per annum. Interest shall be payable on the first day of each month, beginning January 1, 1998, and continuing through June 11, 1998 (the "Maturity Date"); provided that, as long as an Event of Default has not occurred and is continuing, Borrower may extend the Maturity Date to December 11, 1998 upon written notice to Sand Hill, payment of an extension fee equal to \$15,000, and delivery of evidence satisfactory to Sand Hill that Borrower has received or will receive within thirty days of the date of the request not less than \$1,500,000 of proceeds from the sale or issuance of its equity securities. The entire principal balance and all accrued interest shall be immediately due and payable on the Maturity Date.

1. Advance Requests; Payments. Borrower may request an Advance of up to the lesser of (i) the Borrowing Base or (ii) \$520,000 on the date hereof, and may request additional Advances from time to time upon two (2) business days' prior notice to Sand Hill, provided (i) the outstanding Advances hereunder shall at all times not exceed the lesser of (i) the Borrowing Base or (ii) \$520,000, and provided further that the representations contained in this Agreement are true on such date and Borrower is in compliance with the terms of this Agreement. "Borrowing Base" means seventy five percent (75%) of accounts receivable plus fifty percent (50%) of Subscription Fees owing to Borrower pursuant to Section 4.A of each Service Agreement to which Borrower is party, in each case to the extent such accounts and amounts are reasonably acceptable to Sand Hill. All Advances made by Sand Hill to Borrower pursuant to this Agreement shall be recorded by Sand Hill on the books and records of Sand Hill. The failure of Sand Hill to record any Advance or any prepayment or payment made on account of the principal balance hereof shall not limit or otherwise affect the obligation of Borrower under this Agreement to pay the principal, interest and other amounts due and payable under this Agreement. Amounts repaid hereunder may be reborrowed through the Maturity Date. All Advances or any portion thereof may be prepaid prior to maturity without the consent of Sand Hill.

All payments on this Agreement shall be applied first to fees and expenses, then to interest and then to principal. Any principal or interest payments on this Agreement outstanding after the occurrence and during the continuance of an Event of Default under this Agreement shall bear interest at a rate equal to Five Percent above the rate otherwise applicable under this Agreement. In addition, without limiting Sand Hill's rights hereunder, Borrower shall pay Sand Hill a late fee equal to five percent of any amount outstanding on the day after the Maturity Date.

2. Security Agreement. To secure repayment of all obligations evidenced by this Agreement and performance of all of Borrower's obligations hereunder, Borrower grants Sand Hill a security interest in all of Borrower's inventory, accounts, equipment, cash, deposit accounts, securities, chattel paper, software, intellectual property, copyrights, general intangibles and instruments, now existing or hereafter arising, and all proceeds thereof, as such terms are defined in the California Uniform Commercial Code (the "Collateral"). Borrower shall take such actions as Sand Hill requests from time to time to perfect or continue the security interest granted hereunder. Borrower shall not

dispose of or encumber all or any substantial part of the Collateral without Sand Hill's prior written consent.

3. Representations and Warranties. Borrower represents to Sand Hill as follows: (a) Borrower is not in default under any agreement under which Borrower owes any money, or any agreement, the violation or termination of which could have a material adverse effect on Borrower; (b) Borrower has taken all action necessary to authorize the execution, delivery and performance of this Agreement; (c) except for purchase money security interests on particular items of equipment, there are no liens, security interests or other encumbrances on the Collateral; (d) the execution and performance of this Agreement do not conflict with, or constitute a default under, any agreement to which Borrower is party or by which Borrower is bound; (e) the information provided to Sand Hill on or prior to the date of this Agreement is true and correct in all material respects; (f) all financial statements and other information provided to Sand Hill fairly present Borrower's financial condition, and there has not been a material adverse change in the financial condition of Borrower since the date of the most recent of the financial statements submitted to Sand Hill; (g) Borrower is in compliance with all laws and orders applicable to it; and (h) no representation or other statement made by Borrower to Sand Hill contains any untrue statement of a material fact or omits to state a material fact necessary to make any statements made to Sand Hill not misleading.

4. Covenants. (a) Borrower will provide Sand Hill: financial statements prepared in accordance with GAAP as soon as available after the end of Borrower's fiscal year; monthly company-prepared financial statements within 15 days after the end of each month; and such other financial information as Sand Hill may reasonably request from time to time.

(b) Borrower will maintain insurance on the Collateral that includes a lender's loss payable endorsement in favor of Sand Hill as an additional loss payee. Borrower will maintain insurance in a form acceptable to Sand Hill relating to the Collateral and Borrower's business in amounts and of a type that are customary to businesses similar to Borrower's.

(c) Borrower will maintain its corporate existence and good standing and will maintain in force all licenses and agreements, the loss of which could have a material adverse effect on Borrower's business. Borrower will comply with all laws and orders, the violation of which could have a material adverse effect on Borrower's business.

(d) Borrower will not merge or consolidate with any person or entity, or make any investments, or dispose of any substantial portion of its assets, or permit any portion of its assets to be attached or encumbered in each case without Sand Hill's prior written consent.

(e) Borrower will give the same notice to Sand Hill of meetings of its board of directors at the same time as notice is given to board members, and will permit a representative of Sand Hill to attend each such board meeting.

5. Fees and Expenses. Borrower shall pay Sand Hill a facility fee equal to Fifteen Thousand Dollars (\$15,000), and shall immediately upon presentation of an invoice therefor, reimburse Sand Hill for all costs and expenses, including reasonable attorneys fees incurred in the preparation of this Agreement and the other documents executed in connection with this Agreement. Borrower shall also have delivered a warrant to purchase stock to Sand Hill in a form acceptable to Sand Hill. Borrower shall indemnify Sand Hill for any losses or claims incurred in connection with this Agreement or the transactions contemplated hereby. Borrower shall pay all reasonable and actual costs that Sand Hill incurs in enforcing this Agreement or exercising any rights with respect to the Collateral, including without limitation reasonable attorneys fees and expenses.

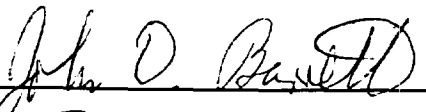
6. Events of Default; Remedies. The following events or circumstances shall constitute an Event of Default: (a) Borrower's failure (i) to pay all or any part of the principal or interest hereunder on the date due and payable or (ii) to comply with any agreement or covenant set forth in this Agreement, (iii) to comply with the terms of any material contract to which Borrower is a party or any agreement pursuant to which Borrower has incurred indebtedness, or (iv) to comply with any law to which Borrower is subject (if any non-compliance under clause (iv) could have a material adverse effect on Borrower's business), or (b) the occurrence of any event having a material adverse effect on the business of Borrower or the likelihood of Borrower's performing its obligations under this Agreement, or (c) any representation made to Sand Hill in this Agreement or any documents provided to Sand Hill is incorrect in any material respect. Upon the occurrence of a default hereunder, all unpaid principal, accrued interest and other amounts owing hereunder shall, at the option of Sand Hill, be immediately collectible by or on behalf of Sand Hill, and Sand Hill may exercise all of the rights of a secured party under the California Uniform Commercial Code. Sand Hill shall have a right to dispose of the Collateral in any commercially reasonable manner, and shall have a royalty-free license to use any name, trademark, advertising matter or any property of a similar nature to complete production of, advertisement for, and disposition of any Collateral. Subject to the terms of the lease under which Borrower occupies its premises, Sand Hill shall have a license to enter into, occupy and use Borrower's premises and the Collateral without charge to exercise any of Sand Hill's rights or remedies under this Agreement.

7. Waivers; Indemnity. Borrower waives presentment and demand for payment, notice of dishonor, protest and notice of protest of this Agreement, and shall pay all costs of collection when incurred, including reasonable attorneys' fees, costs and expenses. Borrower shall indemnify and hold Sand Hill harmless from any claim, obligation or liability (including without limitation reasonable attorneys fees and expenses) arising out of this Agreement or the transactions contemplated hereby.

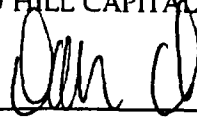
8. Miscellaneous. This Agreement can not be amended orally. All prior agreements are superceded by this Agreement. Borrower may not assign any obligation hereunder without Sand Hill's consent. Sand Hill may grant a participation of other interest in this Agreement without Borrower's consent. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one instrument. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without giving effect to its principles regarding conflicts of law.

9. JURY WAIVER. SAND HILL AND BORROWER EACH WAIVES ANY RIGHT TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION ARISING OUT OF THIS AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN.

J.D.B. & ASSOCIATES, INC.

By:   
Title: CHIEF EXECUTIVE OFFICER

SAND HILL CAPITAL LLC

By:   
Title: V.P.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement is entered into as of December 11, 1997 by and between SAND HILL CAPITAL, LLC ("Sand Hill") and J.D.B. & ASSOCIATES, INC. ("Borrower").

RECITALS

Sand Hill and Borrower are parties to that certain loan agreement of even date (as amended from time to time, the "Loan Agreement"). Capitalized terms used herein have the meaning assigned in the Loan Agreement. Pursuant to the terms of the Loan Agreement, Borrower has granted to Sand Hill a security interest in all of Borrower's right, title and interest, whether presently existing or hereafter acquired, in, to and under the Collateral.

NOW, THEREFORE, Borrower agrees as follows:

AGREEMENT

To secure performance of its obligations under the Loan Agreement, Borrower grants to Sand Hill a security interest in all of Borrower's right, title and interest in Borrower's intellectual property (including without limitation those Copyrights, Patents and Trademarks listed on Schedules A, B and C hereto), including without limitation all proceeds thereof (such as, by way of example but not by way of limitation, license royalties and proceeds of infringement suits).

This security interest is granted in conjunction with the security interest granted to Sand Hill under the Loan Agreement. Each right, power and remedy of Sand Hill provided for herein shall not preclude the simultaneous or later exercise by Sand Hill of any or all other rights, powers or remedies.

IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed as of the first date written above.

Address of Borrower:  
  
2694 Bishop Drive, Suite 115  
San Ramon, CA 94583  
  
Attn: Nancy Stone

J.D.B. & ASSOCIATES, INC.  
  
By: [Signature]  
Title: CHIEF EXECUTIVE OFFICER

Address of Sand Hill:  
  
3000 Sand Hill Road  
Building 2, Suite 110  
Menlo Park, CA 94025  
Attn: Damon Doe

SAND HILL CAPITAL, LLC  
  
By: [Signature]  
Title: V.P.

PA\711921-1  
December 5, 1997

**EXHIBIT** C

EXHIBIT B

Patents

Description

Registration/  
Application  
Number

Registration/  
Application  
Date

PA\711921-1  
December 5, 1997

EXHIBIT C

Trademarks

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
BANK UP LOGO	1,714,369	9/8/92
BANK UP (TEXT)	1,716,751	9/15/92