

10-14-1998

FORM PTO-1594
1-31-92

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office



100849198

10-5-98

To the Honorable Commissioner of Patents a

d original documents or copy thereof.

1. Name of conveying party(ies):
Zacson Corporation

- Individual(s)
- General Partnership
- Corporation-State
- 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: September 29, 1998

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

Name: Comerica Bank California **PN 12: 35**

Internal Address: OPR/FINANCE

Street Address: 333 West Santa Clara Street

City San Jose State CA ZIP 95113

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

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)
1,922,358; 1,995,338; 1,946,511

Additional numbers attached? Yes No

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

Name: Douglas C. Limbach

Internal Address: Limbach & Limbach L.L.P.
Street Address: 2001 Ferry Building
City, State, ZIP: San Francisco, California 94111
Telephone: (415) 433-4150
Facsimile: (415) 433-8716

Attorney Docket No. MAHL-208
10/09/1998 DNGUYEN 00000179 1922358

6. Total number of applications and registrations involved: 3

7. Total fee (37 CFR 3.41):.....\$ 95.00

- Enclosed
- Charge any deficiencies in the enclosed fee to Deposit Account No. 12-1420
- Authorized to be charged to deposit account

8. Deposit account number: 12-1420
(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

01 FC:481 40.00 OP
02 FC:482 50.00 OP
03 FC:990 5.00 OP

REPOK.

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.

Douglas C. Limbach
Name of Person Signing

Douglas C. Limbach
Signature

10-2-98
Date

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

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

Do not detach this portion

Mail documents to be recorded with required cover sheet information to:

Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

Public burden reporting for this sample cover sheet is estimated to average about 30 minutes per document to be recorded, including time for reviewing the document and gathering the data needed, and completing and reviewing the sample cover sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Office of Information Systems, PK2-1000C, Washington, D.C. 20213, and to the Office of Management and Budget, Paperwork Reduction Project, (0651-0011), Washington, D.C. 20503

COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND SECURITY AGREEMENT

This Collateral Assignment, Patent Mortgage and Security Agreement (this "Collateral Assignment") is made as of the 24th day of September, 1998 by and between Zacson Corporation, a California corporation ("Assignor") with its chief executive offices at 3825 Hopyard Road, Pleasanton, California 94588 and Comerica Bank-California ("Assignee"), a California corporation, with its headquarter office at 333 West Santa Clara Street, San Jose, California 95113.

RECITALS

A. This Collateral Assignment is made pursuant to that certain Credit Modification and Forbearance Agreement (the "Credit Modification Agreement") of even date herewith, pursuant to which the parties agreed to certain terms with respect to the loan by Assignor to Assignee (the "Loan") and the existing agreement relating to the Loan (the Credit Modification Agreement and any other documents executed in favor of Bank by Borrower are hereinafter sometimes collectively referred to as the "Loan Agreements").

B. In order to induce Assignee continues to to make the Loan available to Borrower on the terms set forth in the Credit Modification Agreement, Assignor has agreed to assign, for collateral purposes only, certain intangible property to Assignee for the purpose of securing the obligations of Assignor to Assignee under the Loan Agreements.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. Assignment, Patent Mortgage and Grant of Security Interest. As collateral security for the prompt and complete payment and performance of all of Assignor's present or future indebtedness, obligation and liabilities to Assignee, Assignor hereby assigns, transfers, conveys and grants a security interest in and a mortgage to Assignee, as security, Assignor's entire right, title and interest in, to and under the following (all of which shall collectively be called the "Collateral"):

(a) Any and all copyright rights, copyright application, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including, without limitation, those set forth on Exhibit A attached hereto (collectively, the "Copyrights");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, or acquired or held;

(c) Any and all design rights which may be available to Assignor now or hereafter existing, created, acquired or held;

(d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "Patents");

(e) Any trademark and service mark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Assignor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "Trademarks")

(f) Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(g) All licenses or other rights to use any of the Copyrights, Patents or Trademarks, and all license fees and royalties arising from such use; and

(h) All proceeds and products of the foregoing, including, without limitation, all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

THE INTEREST IN THE COLLATERAL BEING ASSIGNED HEREUNDER SHALL NOT BE CONSTRUED AS A CURRENT ASSIGNMENT, BUT AS A CONTINGENT ASSIGNMENT TO SECURE ASSIGNOR'S OBLIGATIONS TO ASSIGNEE UNDER THE NOTE AND SECURITY AGREEMENT.

2. Authorization and Request. Assignor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this Collateral Assignment.

3. Covenants and Warranties. Assignor represents, warrants, covenants and agrees as follows:

(a) Assignor is now the sole owner of the Collateral, except for non-exclusive licenses granted by Assignor to its customers in the ordinary course of business and except for liens, encumbrances or security interests described in Exhibit D attached hereto;

(b) Performance of this Collateral Assignment does not conflict with or result in a breach of any agreement to which Assignor is party or by which Assignor is bound;

(c) During the term of this Collateral Assignment, Assignor will not transfer or otherwise encumber any interest in the Collateral, except for non-exclusive licenses granted by Assignor;

(d) Each of the Patents is valid and enforceable, and no part of the Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Collateral violates the rights of any third party;

(e) Assignor shall promptly advise Assignee of any material change in the composition of the Collateral, including but not limited to any subsequent ownership right of the Assignor in or to any Trademark, Patent or Copyright not specified in this Collateral Assignment;

(f) Assignor shall (i) protect, defend and maintain the validity and enforceability of the Trademarks, Patents and Copyrights; (ii) use its best efforts to detect infringements of the Trademarks, Patents and copyrights and promptly advise Assignee in writing of material infringements detected; and (iii) not allow any Trademarks, Patents or Copyrights to be abandoned, forfeited or dedicated to the public without the written consent of Assignee, which shall not be unreasonably withheld;

(g) Assignor shall promptly register the most recent version of any of Assignor's copyrights, if not so already registered, and shall, from time to time, execute and file such other instruments, and take such further actions as Assignee may request from time to time to perfect or continue the perfection of Assignee's interest in the Collateral;

(h) This Collateral Assignment creates, and in the case of after acquired Collateral, this Assignment will create at the time Assignor first has rights in such after acquired Collateral, in favor of Assignee a valid and perfected first priority security interest in the Collateral in the United States securing the payment and performance of the obligations evidenced by the Note upon making the filings referred to in clause (i) below;

(i) Except for, and upon, the filing with the United States Patent and Trademark office with respect to the Patents necessary to perfect the security interests and assignment created hereunder, and, except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either (i) for the grant by Assignor of the security interest granted hereby or for the execution, delivery or performance of this Collateral Assignment or by Assignor; or (ii) for the perfection in the United States or the exercise by Assignee of its rights and remedies hereunder;

(j) All information heretofore, herein or hereafter supplied to Assignee by or on behalf of Assignor with respect to the Collateral is accurate and complete in all material respects;

(k) Assignor shall not enter into any agreement that would materially impair or conflict with Assignor's obligations hereunder without Assignee's prior written consent. Assignor shall not permit the inclusion in any contract to which it becomes a party of any provisions that could or might in any way impair or prevent the creation of a security interest in Assignor's rights and interests in any property included within the definition of the Collateral acquired under such contracts; and

(l) Upon any officer of Assignor obtaining knowledge thereof, Assignor will promptly notify Assignee in writing of any event that materially adversely affects the value of any of the Collateral, the ability of Assignor or Assignee to dispose of any of the Collateral or the rights and remedies of Assignee in relation thereto, including the levy of any legal process against any of the Collateral.

4. Assignee's Rights. Assignee shall have the right, but not the obligation, to take, at Assignor's sole expense, any actions that Assignor is required under this Collateral Assignment to take but which Assignor fails to take, after five (5) days' telephonic or written notice to Assignor. Assignor shall reimburse and indemnify Assignee for all costs and expenses incurred in the reasonable exercise of its rights under this Section 4.

5. Inspection Rights. Assignor hereby grants to Assignee and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable notice to Assignor, any of Assignor's and its subcontractors' plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold under any of the Collateral, and to inspect the products and quality control records relating thereto upon reasonable notice to Assignor and as often as may be reasonably requested; provided, however, nothing herein shall entitle Assignee to access to Assignor's trade secrets and/or other proprietary information.

6. Further Assurances; Attorney in Fact.

(a) On a continuing basis, Assignor will, at its own expense, subject to any prior licenses, encumbrances and restrictions and prospective licenses, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including, appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Assignee to carry out the intent and purposes of this Collateral Assignment, or for assuring and confirming to Assignee the grant or perfection of a security interest in all Patents.

(b) Assignor hereby irrevocably appoints Assignee as Assignor's attorney-in-fact, with full authority in the place and stead of Assignor and in the name of Assignor, Assignee or otherwise, from time to time in Assignee's discretion, to take any action and to execute any instrument which Assignee may deem necessary or advisable to accomplish the purposes of this Collateral Assignment, including:

(i) To modify, in its sole discretion, this Collateral Assignment without first obtaining Assignor's approval of or signature to such modification by amending Exhibit A, Exhibit B and Exhibit C thereof, to include reference to any right, title or interest in any copyright, patents, or trademarks acquired by Assignor after the execution hereof or to delete any reference to any right, title, interest in any copyrights, patents, or trademarks in which Assignor no longer has or claims any right, title or interest; and,

(ii) To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Assignor where permitted by law.

7. Events of Default. The occurrence of any of the following shall constitute an Event of Default under this Collateral Assignment:

(a) An Event of Default occurs under the Loan Agreements or any other agreement; or

(b) Assignor breaches any warranty or agreement made by Assignor in this Collateral Assignment.

8. Remedies. Upon the occurrence of an Event of Default, Assignee shall have the right to exercise all of the rights and remedies of a secured party under the California Uniform Commercial Code, including, without limitation, the right to require Assignor to assemble the Collateral and to make it available to Assignee at a place designated by Assignee. Assignor will pay any expenses (including attorneys' fees and legal and other costs) incurred by Assignee in connection with the exercise of any of Assignee's rights hereunder, including, without limitation, any expense incurred in disposing of the Collateral. All of Assignee's rights and remedies with respect to the Collateral shall be cumulative.

9. Indemnity. Assignor agrees to defend, indemnify and hold harmless Assignee and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement; and (b) all losses or expenses in any way suffered, incurred, or paid by Assignee as a result of or in any way arising out of, following or consequential to transactions between Assignee and Assignor, whether under this Collateral Assignment or otherwise (including, without limitation, attorneys' fees and legal and other costs), except for losses arising from or out of Assignee's gross negligence or willful misconduct.

10. Reassignment. At such time as Assignor shall completely satisfy all of the obligations secured hereunder, Assignee shall execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to revest in Assignor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Assignee pursuant hereto.

Collateral Assignment may be amended only by a written instrument signed by both parties hereto.

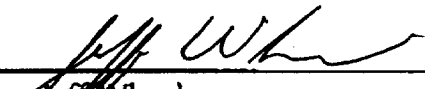
13. Counterparts. This Collateral Assignment may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

14. California Law and Jurisdiction. This Collateral Assignment shall be governed by the laws of the State of California, without regard for choice of law principles. Assignor and Assignee consent to the non-exclusive jurisdiction of any state or federal court located in Santa Clara County, California.

IN WITNESS WHEREOF, the parties hereto have executed this Collateral Assignment, Patent Mortgage and Security Agreement as of the day and year first above written.


ASSIGNOR:

ZACSON CORPORATION

By: 
Title: Jeff Wheeler
CO

ASSIGNEE:

COMERICA BANK-CALIFORNIA

By: 
Title: Suanne L. Mingrone
Vice President

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

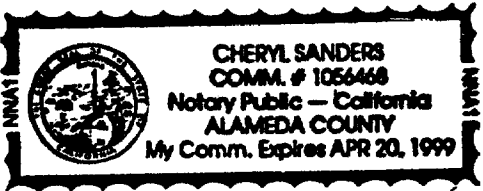
State of California

County of Alameda

On Sept 29, 1998 before me, Cheryl Sanders Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared Jeffrey Wheeler
Name(s) of Signer(s)

personally known to me - OR - proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



WITNESS my hand and official seal.

Cheryl Sanders
Signature of Notary Public

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Collateral Assignment Patent Mortgage and Security Agreement sent by Mahi Behon Walworth + Roberts (Attorney at Law)

Document Date: September 28, 1998 Number of Pages: 1

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

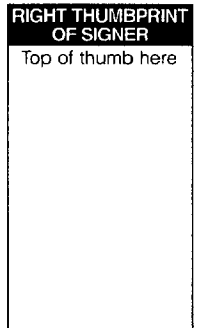
- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

Signer's Name: _____

- Individual
- Corporate Officer
Title(s): _____
- Partner — Limited General
- Attorney-in-Fact
- Trustee
- Guardian or Conservator
- Other: _____



Signer Is Representing: _____

TRADEMARK
REEL: 1798 FRAME: 0426

EXHIBIT A

SCHEDULE A - ISSUED COPYRIGHTS

<u>Copyright Description</u>	<u>Registration No.</u>	<u>Date of Issuance</u>
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N/A

SCHEDULE B - PENDING COPYRIGHT APPLICATIONS

<u>Copyright Description</u>	<u>Application No.</u>	<u>Date of Filing</u>	<u>Date of Creation</u>	<u>First Date of Public Distribution</u>
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N/A

SCHEDULE C - UNREGISTERED COPYRIGHTS

<u>Copyright Description</u>	<u>Date of Creation</u>	<u>First Date of Distribution</u>	<u>Original Author or Owner (If Different From Assignor)</u>	<u>Date and Recordation Number of Assignment to Assignor (If Original Author or Owner of Copyright is Different From Assignor)</u>
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N/A

EXHIBIT B

PATENTS

<u>Patent Description</u>	<u>Docket No.</u>	<u>Country</u>	<u>Serial No.</u>	<u>Filing Date</u>	<u>Status</u>
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N/A

EXHIBIT C

REGISTERED TRADEMARKS/SERVICE MARKS

<u>Mark</u>	<u>Territory</u>	<u>Application No.</u>	<u>Reg. No.</u>	<u>Reg. Date</u>	<u>Class</u>	<u>Goods & Services</u>	<u>File No.</u>
ZACSON	Australia	667753	667753	7/26/95	35	Business management and consultation services, including providing telemarketing, marketing, advertising, and public relations for others.	98956-045
ZACSON	Benelux	78498	568802	12/23/94	35	Business management and consultation services, namely providing telemarketing, marketing, advertising, and public relations for others.	98956-018
ZACSON	Canada	765771	477395	6/9/97	35	Business management and consultation services, namely, providing marketing through telecommunication and other channels, advertising and public relations for others.	98956-011
ZACSON	Mexico	215674	511744	11/11/95	35	Business management and consultation services, namely, providing telemarketing, marketing, advertising, and public relations for others.	98956-010
ZACSON	Singapore	6939/95	6939/95	7/29/95	35	Business management and consultation services, namely, providing telemarketing, marketing, advertising and public relations for others.	98956-043
ZACSON	United Kingdom	2044219	2044219	11/9/95	35	Business management and consultation services, marketing, advertising and public relations services.	98956-050
INTELEGEN MARKETING	United States	74/519632	1922358	9/29/95	35	Business management consulting services, and marketing consulting services FUD & INTER: 4/1/94.	98956-017
ZACSON	United States	74/713514	1995338	8/20/96	35	Business management and consultation services, namely providing telemarketing, advertising and public relations services for others FUD: 1/12/88.	98956-016
THREE DIAMOND DESIGN	United States	74/570934	1946511	1/9/96	35	Business management and consultation services, namely, providing telemarketing, marketing, advertising and public relations services for others.	98956-008

EXHIBIT D

LIENS AND ENCUMBRANCES

(If blank, not applicable)