

(Rev. 6-92) **D**  
10-13-98

11-04-1998



To the Honorable Commissioner of Patent:

100869223

Final documents or copy thereof.

1. Name of conveying party(ies):

**CrossRoute Software, Inc.**  
555 Twin Dolphin Drive, Suite 600  
Redwood Shores, California 94065

- Individual(s)
- General Partnership
- Corporation
- 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: Dated as of September 8, 1998

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

Name: Imperial Bank

Street Address: 226 Airport Parkway

City: San Jose State: CA ZIP 95110

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation
- Other California state-chartered bank

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 Serial Nos.: ( 75/265882 )

B. Trademark Registration No.(s): ( 2,171,722 )

Additional numbers attached?  Yes  No

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

Name: Joni Gok  
Firm: Cooley Godward LLP  
Street Address: One Maritime Plaza, 20th Floor  
City: San Francisco State: CA ZIP 94111

6. Total number of applications and registration involved: 10

7. Total fee (37 CFR 3.41): \$ 65.00  
 Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number: Currently Not Applicable  
(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 attached hereto is a true and correct copy of the document described in Item 3 above.

*Joni Gok*

Joni Gok

10-12-98

Date

Total number of pages including cover sheet, attachments, and document: 10

11/03/1998 DNGUYEN 00000021 2171722

01 FC:481  
08 FC:482

40.00 OP  
25.00 OP

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

GUIDELINES FOR COMPLETING TRADEMARKS COVER SHEETS

# COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND SECURITY AGREEMENT

THIS COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND SECURITY AGREEMENT is made as of September 8, 1998 ("*Security Agreement*"), by and between CROSSROUTE SOFTWARE, INC., a California corporation ("*Debtor*"), and IMPERIAL BANK ("*Bank*").

## RECITALS

A. Bank has agreed to lend to Debtor certain funds (the "*Loans*"), and Debtor desires to borrow such funds from Bank pursuant to the terms of an Amended and Restated Loan Agreement dated of even date herewith (as the same may be modified, amended, supplemented, restated or superceded from time to time, collectively, the "*Restated Loan Agreement*"). Terms not defined herein shall have the meanings ascribed to them in the Restated General Security Agreement.

B. In order to induce Bank to make the Loans, Debtor has agreed to assign the Proceeds of certain intangible property to Bank for purposes of securing the obligations of Debtor to Bank.

NOW, THEREFORE, the parties hereto agree as follows:

1. **COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND GRANT OF SECURITY INTEREST.** As collateral security for the prompt and complete payment and performance of all of Debtor's present or future indebtedness, obligations and liabilities to Bank, including, without limitation, such indebtedness, obligations and liabilities under the Restated Loan Agreement and the other documents executed in connection therewith (as the same may be modified, amended, supplemented, restated or superceded from time to time, collectively, the "*Loan Documents*"), Debtor hereby assigns, transfers, conveys and grants a security interest and mortgage to Bank, as security, in and to all Proceeds (the "*Collateral*") of Debtor's entire right, title and interest in, to and under the following, now or hereafter existing, created, acquired or held by Debtor (the "*Contingent Collateral*"):

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, including, without limitation, those set forth on **Exhibit A** attached hereto and incorporated herein by this reference (collectively, the "*Copyrights*");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products;

(c) Any and all design rights which may be available to Debtor;

(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, those set forth on **Exhibit B** attached hereto and incorporated herein by this reference (collectively, the "*Patents*");

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Debtor connected with and symbolized by such trademarks, including, without limitation, those set forth on **Exhibit C** attached hereto and incorporated herein by this reference (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 to the extent permitted by such license or rights;

(h) All amendments, renewals and extensions of any of the Copyrights, Patents or Trademarks;

(i) 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; and

(j) If any state or federal court (including a bankruptcy court) holds that a security interest in the Contingent Collateral is necessary for the Bank to have a security interest in the above-described Proceeds (a "Holding"), the Collateral shall also include the Contingent Collateral. Until such a Holding is made, the parties agree that unless otherwise specified, all references hereinafter made to the Collateral shall exclude the Contingent Collateral.

As used herein, "Proceeds" shall mean "proceeds," as such term is defined in Section 9-306(1) of the UCC and, in any event, shall include, without limitation, (a) any and all accounts, chattel paper, and instruments (as such terms are defined in the UCC), cash, income, royalties, or other proceeds payable to Debtor from time to time in respect of the Collateral or Debtor's Intellectual Property, (b) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to Debtor from time to time with respect to any of the Collateral or Debtor's Intellectual Property, (c) any and all payments (in any form whatsoever) made or due and payable to Debtor from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture of all or any part of the Collateral or Debtor's Intellectual Property by any governmental body, authority, bureau or agency (or any person acting under color of governmental authority), (d) any damages or settlements received by Debtor based on any claim of Debtor against third parties (i) for past, present or future infringement of any Patent or Patent license, (ii) for past, present or future infringement of any Copyright or Copyright license, (iii) for past, present or future infringement, dilution or misappropriation of any Trademark or Trademark license or for injury to the goodwill associated with any Trademark, Trademark registration or Trademark licensed under any Trademark license, (e) all certificates, dividends, cash, instruments (as such term is defined in the UCC) and other property received or distributed in respect of or in exchange for any investment property (as such term is defined in the UCC) and (f) any and all other amounts from time to time paid or payable under or in connection with any of the Collateral, Debtor's Intellectual Property or any Contract.

THE INTEREST IN THE COLLATERAL BEING ASSIGNED HEREUNDER SHALL NOT BE CONSTRUED AS A CURRENT ASSIGNMENT, BUT AS A CONTINGENT ASSIGNMENT TO SECURE ALL OF DEBTOR'S PRESENT OR FUTURE INDEBTEDNESS, OBLIGATIONS AND LIABILITIES TO BANK, INCLUDING, WITHOUT LIMITATION, SUCH INDEBTEDNESS, OBLIGATIONS AND LIABILITIES UNDER THE RESTATED LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS.

2. **AUTHORIZATION AND REQUEST.** Debtor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this conditional assignment.

3. **COVENANTS AND WARRANTIES.** Debtor represents, warrants, covenants and agrees as follows:

(a) Debtor is now the sole owner of the Collateral. With respect to the Contingent Collateral, Debtor does not own the intellectual property rights in any portion of the Debtor's software product that now or hereafter is licensed from a third party ("Third Party Code"). Debtor has adequate license rights to make the uses it makes of such Third Party Code, but does not have the right to grant Bank ownership, use or distribution rights to such Third Party Code;

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

(c) During the term of this Security Agreement, Debtor will not sell, transfer, assign or otherwise encumber any interest in the Collateral. With respect to the Contingent Collateral, unless otherwise provided in the Loan Documents, Debtor retains the right to sell, transfer, license and assign rights in its Intellectual Property, in the ordinary course of Debtor's business or as approved by Debtor's Board of Directors;

(d) To its knowledge as of the date of this Security Agreement each of the Patents is valid and enforceable, and there are no Patents, Trademarks or Copyrights ("Intellectual Property") which have been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property violates the rights of any third party;

(e) Debtor shall promptly advise Bank of any new products or major new releases of its software products that it makes generally available to its customers (collectively, the "Releases") and of any patents that issue in the name of Debtor or that are assigned to Debtor;

(f) Debtor shall use such efforts as its Board of Directors determines appropriate to protect, defend and maintain the validity and enforceability of the Intellectual Property and to detect infringements;

(g) Debtor shall promptly register the copyright to each new Release with the U.S. Copyright Office;

(h) This Security Agreement creates, and in the case of after acquired Collateral, this Security Agreement will create at the time Debtor first has rights in such after acquired Collateral, in favor of Bank a valid and perfected first priority security interest in the Collateral in the United States securing the payment and performance of all present or future indebtedness, obligations and liabilities of Debtor to Bank, including, without limitation, such indebtedness, obligations and liabilities under the Restated Loan Agreement and the other Loan Documents, upon making the filings referred to in Section 3(i) below, subject only to Permitted Liens;

(i) To its knowledge as of the date of this Security Agreement, except for, and upon, the filings with, as applicable, (1) the United States Patent and Trademark office with respect to the Patents and Trademarks, (2) the Register of Copyrights with respect to the Copyrights and (3) the UCC Division of the California Secretary of State, 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 United States governmental authority or United States regulatory body is required either (a) for the grant by Debtor of the security interest granted hereby or for

the execution, delivery or performance of this Security Agreement by Debtor in the United States or (b) for the perfection in the United States or the exercise by Bank of its rights and remedies hereunder;

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

(k) Debtor shall not enter into any agreement that would materially impair or conflict with Debtor's obligations hereunder without Bank's prior written consent, which consent shall not be unreasonably withheld. Debtor shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Debtor's rights and interests in any property included within the definition of the Collateral acquired under such contracts, except that certain contracts may contain anti-assignment provisions that could in effect prohibit the creation of a security interest in such contracts. The parties acknowledge and agree that prior to a Holding, the security interest granted hereby only grants Bank rights as to the Proceeds derived from the Contingent Collateral; and

(l) Upon any executive officer of Debtor obtaining actual knowledge thereof, Debtor will promptly notify Bank in writing of any event that materially adversely affects the value of any Collateral, the ability of Debtor to dispose of any Collateral or the rights and remedies of Bank in relation thereto, including the levy of any legal process against any of the Collateral. Debtor shall have no obligation to notify Bank of market changes that could materially adversely affect the value of the Intellectual Property, including but not limited to the introduction of competitive products.

**4. BANK'S RIGHTS.** Bank shall have the right, but not the obligation, to take, at Debtor's sole expense, any actions that Debtor is required under this Security Agreement to take but which Debtor fails to take, after fifteen (15) days' notice to Debtor. Debtor shall reimburse and indemnify Bank for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this Section 4.

**5. INSPECTION RIGHTS.** Debtor hereby grants to Bank and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable written notice to Debtor, any of Debtor's plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold utilizing any of the Intellectual Property, and to inspect the products and quality control records relating thereto upon reasonable written notice to Debtor and as often as may be reasonably requested.

**6. FURTHER ASSURANCES; ATTORNEY IN FACT.**

(a) On a continuing basis, Debtor will 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 the Register of Copyrights, and take all such action as may reasonably be necessary or advisable, or as reasonably requested by Bank, to perfect Bank's security interest in the Collateral, and otherwise to carry out the intent and purposes of this Security Agreement, or for assuring and confirming to Bank the grant or perfection of a security interest in all Collateral.

(b) Debtor hereby irrevocably appoints Bank as Debtor's attorney-in-fact, with full authority in the place and stead of Debtor and in the name of Debtor, from time to time in Bank's discretion, to take any action and to execute any instrument which Bank may reasonably deem necessary or advisable to accomplish the purposes of this Security Agreement, including (i) to modify, in its reasonable discretion, this Security Agreement without first obtaining Debtor's approval of or signature to such modification by amending **Exhibit A, Exhibit B or Exhibit C** hereof, as appropriate, to include

reference to any material right, title or interest in any Intellectual Property acquired by Debtor after the execution hereof or to delete any reference to any right, title or interest in any Intellectual Property in which Debtor no longer has or claims any right, title or interest, (ii) to file, in its reasonable discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Debtor where permitted by law and (iii) after the occurrence and during the continuance of an Event of Default, to transfer the Collateral into the name of Bank or a third party to the extent permitted under the California Uniform Commercial Code. Bank will not have the right to transfer the Intellectual Property into the name of Bank or a third party except after a Holding.

**7. EVENTS OF DEFAULT.** The occurrence of any of the following shall constitute an "*Event of Default*" under this Security Agreement:

(a) An Event of Default occurs under the Restated Loan Agreement or any of the other Loan Documents; or

(b) Debtor breaches any warranty or agreement in any material respect made by Debtor in this Security Agreement and, as to any breach that is capable of cure, Debtor fails to cure such breach within fifteen (15) days of the occurrence of such breach if notice thereof has been given to Debtor.

**8. REMEDIES.** Upon the occurrence and during the continuance of an Event of Default, Bank shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including, without limitation, the right to require Debtor to assemble the collateral and any tangible property in which Bank has a security interest and to make it available to Bank at a place designated by Bank. Upon the occurrence and during the continuance of an Event of Default, Bank shall have a nonexclusive, royalty free license to use the Copyrights, Patents and Trademarks, to the extent reasonably necessary to permit Bank to exercise its rights and remedies with respect to the Collateral and, after a Holding, the Contingent Collateral. The rights of Bank hereunder are limited to those necessary to permit Bank to exercise its rights and remedies with respect to the Collateral and Bank will only have the right to use or transfer the Intellectual Property or the Releases after a Holding. Debtor will pay any expenses (including reasonable attorneys' fees) incurred by Bank in connection with the exercise of any of Bank's rights hereunder, including, without limitation, any expense incurred in disposing of the Collateral. All of Bank's rights and remedies with respect to the Collateral shall be cumulative.

**9. INDEMNITY.** Debtor agrees to defend, indemnify and hold harmless Bank 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 Security Agreement and (b) all losses or expenses in any way suffered, incurred, or paid by Bank as a result of or in any way arising out of or following any transactions between Bank and Debtor, whether under this Security Agreement or otherwise (including, without limitation, reasonable attorneys' fees and reasonable expenses), except for losses arising from or out of Bank's negligence or willful misconduct.

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

**11. NO FAILURE OR DELAY.** No failure or delay on the part of Bank, in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof.

12. **ATTORNEYS' FEES.** If any action relating to this Security Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements.

13. **AMENDMENTS.** This Security Agreement may be amended only by a written instrument signed by both parties hereto.

14. **COUNTERPARTS.** This Security Agreement may be executed in any number of counterparts, each of which when so delivered shall be deemed an original, but all such counterparts shall constitute but one and the same instrument. Each such Security Agreement shall become effective upon the execution of a counterpart hereof or thereof by each of the parties hereto and telephonic notification that such executed counterparts has been received by Debtor and Bank.

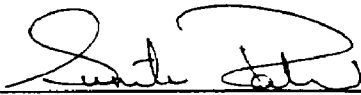
15. **JUDICIAL REFERENCE.** The terms and provisions of Section 15.B. of the Restated Loan Agreement is incorporated herein by this reference and made a part hereof.

16. **GOVERNING LAW; JURISDICTION; JURY WAIVER.** This Security Agreement shall be governed by, and construed in accordance with, the internal laws of the State of California, without regard to principles of conflicts of law. Debtor and Bank consent to the exclusive jurisdiction of any state or federal court located in Santa Clara County, California. DEBTOR AND BANK EACH WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS SECURITY AGREEMENT AND ANY OTHER LOAN DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

17. **CONFLICT.** In the event of a conflict between any term and/or provision contained in this Security Agreement with any term and/or provision contained in the Restated Security Agreement, the term and/or provision of this Security Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Security Agreement on the day and year first above written.


**BANK**  
**IMPERIAL BANK**

By:   
Sunita R. Patel  
Assistant Vice President

Address of Bank  
226 Airport Parkway  
San Jose, California 95110

with a copy to:  
2460 Sand Hill Road, Suite 102  
Menlo Park, California 94025  
Attention: Sunita R. Patel

**DEBTOR**  
**CROSSROUTE SOFTWARE, INC.,**  
a California corporation

By:   
Bruce Hausmann  
Vice President, Finance

Address of Debtor  
555 Twin Dolphin Drive, Suite 600  
Redwood Shores, California 94065  
Attention: \_\_\_\_\_

**EXHIBIT A**  
**COPYRIGHTS**

1. **REGISTERED:** List titles below or indicate "None"

CrossRoute Alliance™

2. **UNREGISTERED:** List titles below or indicate "None"

NONE.

3. **APPLICATIONS IN PROCESS:** List titles, applicable dates, application numbers, etc. below or indicate "None"

NONE.



**EXHIBIT B**

**U.S. PATENTS AND PATENT APPLICATIONS**

(List titles below or indicate "None")

<b>PATENT NO.</b>	<b>PENDING APPLICATION NO.</b>	<b>TITLE</b>	<b>ISSUE DATE</b>	<b>FILING DATE</b>
	WO PCT/US98/01403 (US 36385)	System and Method for Creating, Executing and Maintaining Cross- Enterprise Processes		01/23/98 (01/24/97)

EXHIBIT C

U.S. TRADEMARKS AND TRADEMARK APPLICATIONS

(List marks below or indicate "None")

REGISTRATION NO.	PENDING APPLICATION NO.	MARK	REGISTRATION DATE	FILING DATE
2,171,722	75/125625	CrossRoute Software	07/07/98	06/26/96
	75/265882	CrossRoute Alliance	12/19/97	03/28/97

**UNREGISTERED TRADEMARKS:** List marks below or indicate "None."