

05-03-1999

FORM PTO-1618A

Expires 06/30/99  
OMB 0651-0027

U.S. Department of Commerce  
Patent and Trademark Office  
TRADEMARK



101025566

4-21-99

### RECORDATION FORM COVER SHEET TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

#### Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID #
- Correction of PTO Error  
Reel #  Frame #
- Corrective Document  
Reel #  Frame #

#### Conveyance Type

- Assignment  License
- Security Agreement  Nunc Pro Tunc Assignment
- Merger
- Change of Name
- Other

Effective Date  
Month Day Year

58-12-4

#### Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name

Formerly

- Individual  General Partnership  Limited Partnership  Corporation  Association
- Other

Citizenship/State of Incorporation/Organization

#### Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AK/A/T/A

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City State/Country Zip Code

- Individual  General Partnership  Limited Partnership  If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)
- Corporation  Association
- Other

Citizenship/State of Incorporation/Organization

04/29/1999 JSHADAZZ 00000064 75250170

FOR OFFICE USE ONLY

01 FC:481  
02 FC:482

40.00 OP  
300.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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

TRADEMARK  
REEL: 1890 FRAME: 0039

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

Enter the total number of pages of the attached conveyance document including any attachments.

#

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**

**Registration Number(s)**

<input type="text" value="75250170"/>	<input type="text" value="75129585"/>	<input type="text" value="75164294"/>
<input type="text" value="75129946"/>	<input type="text" value="75129576"/>	<input type="text" value="75164293"/>
<input type="text" value="75129586"/>	<input type="text" value="75164295"/>	<input type="text" value="75164210"/>

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**Number of Properties**

Enter the total number of properties involved.

#

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment:

Enclosed

Deposit Account

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

**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. Charges to deposit account are authorized, as indicated herein.

KATHRYN GAMBINO

*Kathryn Gambino*

04/19/99

Name of Person Signing

Signature

Date Signed

**RECORDATION FORM COVER SHEET  
CONTINUATION  
TRADEMARKS ONLY**

FORM PTO-1618C  
Expires 08/30/99  
OMB 0651-0027

U.S. Department of Commerce  
Patent and Trademark Office  
**TRADEMARK**

**Conveying Party**

Enter Additional Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name

Formerly

Individual  General Partnership  Limited Partnership  Corporation  Association

Other

Citizenship State of Incorporation/Organization

**Receiving Party**

Enter Additional Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)     
City State/Country Zip Code

Individual  General Partnership  Limited Partnership

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Other

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If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached (Designation must be a separate document from the Assignment.)

**Trademark Application Number(s) or Registration Number(s)**

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Mark if additional numbers attached

**Trademark Application Number(s)**

**Registration Number(s)**

<input type="text" value="75157996"/>	<input type="text"/>	<input type="text"/>
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<input type="text" value="75157986"/>	<input type="text"/>	<input type="text"/>
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# PATENT AND TRADEMARK SECURITY AGREEMENT

This PATENT AND TRADEMARK SECURITY AGREEMENT ("Agreement"), dated as of December 24, 1998, is entered into between **BACKWEB TECHNOLOGIES LTD.**, an Israeli corporation ("Grantor"), which has a mailing address at 2077 Gateway Plaza, Suite 500, San Jose, California 95110 and **TRANSAMERICA BUSINESS CREDIT CORPORATION**, a Delaware corporation, ("TBCC") having its principal office at 9399 West Higgins Road, Suite 600, Rosemont, Illinois 60018 and having an office at 15260 Ventura Blvd., Suite 1240, Sherman Oaks, California 91403.

## RECITALS

A. TBCC is providing financing to BackWeb Technologies Inc., a Delaware corporation ("Borrower") pursuant to the Loan and Security Agreement of substantially even date herewith between TBCC and Borrower.

B. Grantor has guaranteed all of the present and future indebtedness, liabilities and obligations of Borrower pursuant to a Guaranty of substantially even date herewith and Grantor has granted to TBCC a security interest in all of Grantor's present and future assets, including without limitation all of Grantor's present and future general intangibles, and including without limitation the "Collateral" (as defined below), to secure all of its present and future indebtedness, liabilities, guaranties and other obligations to TBCC under a Debenture and other documents of substantially even date herewith. Said Guaranty, Debenture and other documents are referred to herein collectively as the "Guarantor Documents".

NOW THEREFORE, in consideration of the mutual promises, covenants, conditions, representations, and warranties hereinafter set forth and for other good and valuable consideration, the parties hereto mutually agree as follows:

## 1. DEFINITIONS AND CONSTRUCTION.

1.1 **Definitions.** The following terms, as used in this Agreement, have the following meanings:

"Code" means the Illinois Uniform Commercial Code, as amended and supplemented from time to time, and any successor statute.

"Collateral" means all of the following, whether now owned or hereafter acquired:

(i) Each of the trademarks and rights and interest which are capable of being protected as trademarks (including trademarks, service marks, designs, logos, indicia, tradenames, corporate names, company names, business names, fictitious business names, trade styles, and other source or business identifiers, and applications pertaining thereto), which are presently, or in the future may be, owned, created, acquired, or used (whether pursuant to a license or otherwise) by Grantor, in whole or in part, and all trademark rights with respect thereto throughout the world, including all proceeds thereof (including license royalties and proceeds of infringement suits), and rights to renew and extend such trademarks and trademark rights;

(ii) Each of the patents and patent applications which are presently, or in the future may be, owned, issued, acquired, or used (whether pursuant to a license or otherwise) by Grantor, in whole or in part, and all patent rights with respect thereto throughout the world, including all proceeds thereof (including license royalties and

proceeds of infringement suits), foreign filing rights, and rights to extend such patents and patent rights;

(iii) All of Grantor's right to the trademarks and trademark registrations listed on Exhibit A attached hereto, as the same may be updated hereafter from time to time;

(iv) All of Grantor's right, title, and interest, in and to the patents and patent applications listed on Exhibit B attached hereto, as the same may be updated hereafter from time to time;

(v) All of Grantor's right, title and interest to register trademark claims under any state or federal trademark law or regulation of any foreign country and to apply for, renew, and extend the trademark registrations and trademark rights, the right (without obligation) to sue or bring opposition or cancellation proceedings in the name of Grantor or in the name of TBCC for past, present, and future infringements of the trademarks, registrations, or trademark rights and all rights (but not obligations) corresponding thereto in the United States and any foreign country;

(vi) All of Grantor's right, title, and interest in all patentable inventions, and to file applications for patent under federal patent law or regulation of any foreign country, and to request reexamination and/or reissue of the patents, the right (without obligation) to sue or bring interference proceedings in the name of Grantor or in the name of TBCC for past, present, and future infringements of the patents, and all rights (but not obligations) corresponding thereto in the United States and any foreign country;

(vii) the entire goodwill of or associated with the businesses now or hereafter conducted by Grantor connected with and symbolized by any of the aforementioned properties and assets;

(viii) All general intangibles relating to the foregoing and all other intangible intellectual or other similar property of the Grantor of any kind or nature, associated with or arising out of any of the aforementioned properties and assets and not otherwise described above; and

(ix) All products and proceeds of any and all of the foregoing (including, without limitation, license royalties and proceeds of infringement suits) and, to the extent not otherwise included, all payments under insurance, or any indemnity, warranty, or guaranty payable by reason of loss or damage to or otherwise with respect to the Collateral.  
\*

**\*Provided that the term "Collateral" shall not include any licenses under which Grantor is a licensee, to the extent the granting of a security interest therein is prohibited by or would constitute a default under such license (but only to the extent such prohibition is enforceable under applicable law).**

"Obligations" means all present and future obligations, liabilities, and indebtedness of Grantor to TBCC, whether direct, indirect, liquidated, or contingent, and whether arising under this Agreement, the Guarantor Documents, or otherwise, including all reasonable costs and expenses as set forth in the Guarantor Documents.

**1.2 Construction.** Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, references to the singular include the plural, and the term "including" is not limiting. The words "hereof," "herein," "hereby," "hereunder," and other similar terms refer to this Agreement as a whole and not to any particular provision of this Agreement. Any initially capitalized terms used but not defined herein shall have the meaning set

forth in the Guarantor Documents. Any reference herein to any of the Guarantor Documents includes any and all alterations, amendments, extensions, modifications, renewals, or supplements thereto or thereof, as applicable. Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against TBCC or Grantor, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by Grantor, TBCC, and their respective counsel, and shall be construed and interpreted according to the ordinary meaning of the words used so as to fairly accomplish the purposes and intentions of TBCC and Grantor. Headings have been set forth herein for convenience only, and shall not be used in the construction of this Agreement.

## **2. GRANT OF SECURITY INTEREST.**

To secure the complete and timely payment and performance of all Obligations, and without limiting any other security interest Grantor has granted to TBCC, Grantor hereby grants, assigns, and conveys to TBCC a security interest in Grantor's entire right, title, and interest in and to the Collateral.

## **3. REPRESENTATIONS, WARRANTIES AND COVENANTS.**

Grantor hereby represents, warrants, and covenants that:

**3.1 Trademarks; Patents.** A true and complete schedule setting forth all federal and state trademark registrations owned or controlled by Grantor or licensed to Grantor, together with a summary description and full information in respect of the filing or issuance thereof and expiration dates is set forth on Exhibit A; and a true and complete schedule setting forth all patent and patent applications owned or controlled by Grantor or licensed to Grantor, together with a summary description and full information in respect of the filing or issuance thereof and expiration dates is set forth on Exhibit B.

**3.2 Validity; Enforceability.** \*Each of the patents and trademarks is valid and enforceable, and Grantor is not presently aware of any past, present, or prospective claim by any third party that any of the patents or trademarks are invalid or unenforceable, or that the use of any patents or trademarks violates the rights of any third person, or of any basis for any such claims.

**\*To the best of Grantor's knowledge**

**3.3 Title.** \* Grantor is the sole and exclusive owner of the entire and unencumbered right, title, and interest in and to each of the patents, patent applications, trademarks, and trademark registrations, free and clear of any liens, charges, and encumbrances, including pledges, assignments, licenses, shop rights, and covenants by Grantor not to sue third persons.

**\*Except for the security interest granted hereby and liens permitted under the Guarantor Documents**

**3.4 Notice.** Grantor has used and will continue to use proper statutory notice in connection with its use of each of the patents and trademarks.

**3.5 Quality.** Grantor has used and will continue to use consistent standards of high quality (which may be consistent with Grantor's past practices) in the manufacture, sale, and delivery of products and services sold or delivered under or in connection with the trademarks, including, to the extent applicable, in the operation and maintenance of its merchandising operations, and will continue to maintain the validity of the trademarks.

**3.6 Perfection of Security Interest.** Except for the filing of appropriate financing statements (all of which filings have been made) and filings with the United States Patent and Trademark Office necessary to perfect the security interests created hereunder, no authorization, approval, or other action by, and no notice to or filing with, any governmental authority or regulatory body is required either for the grant by Grantor of the security interest hereunder or for the execution, delivery, or performance of this Agreement by Grantor or for the perfection of or the exercise by TBCC of its rights hereunder to the Collateral in the United States.

#### **4. AFTER-ACQUIRED PATENT OR TRADEMARK RIGHTS.**

If Grantor shall obtain rights to any new trademarks, any new patentable inventions or become entitled to the benefit of any patent application or patent for any reissue, division, or continuation, of any patent, the provisions of this Agreement shall automatically apply thereto. Grantor shall give prompt notice in writing to TBCC with respect to any such new trademarks or patents, or renewal or extension of any trademark registration. Grantor shall bear any expenses incurred in connection with future patent applications or trademark registrations. Without limiting Grantor's obligation under this Section 4, Grantor authorizes TBCC to modify this Agreement by amending Exhibits A or B to include any such new patent or trademark rights. Notwithstanding the foregoing, no failure to so modify this Agreement or amend Exhibits A or B shall in any way affect, invalidate or detract from TBCC's continuing security interest in all Collateral, whether or not listed on Exhibit A or B.

#### **5. LITIGATION AND PROCEEDINGS.**

Grantor shall commence and diligently prosecute in its own name, as the real party in interest, for its own benefit, and its own expense, such suits, administrative proceedings, or other action for infringement or other damages as are in its reasonable business judgment necessary to protect the Collateral. Grantor shall provide to TBCC any information with respect thereto requested by TBCC. TBCC shall provide at Grantor's expense all necessary cooperation in connection with any such suits, proceedings, or action, including, without limitation, joining as a necessary party. Following Grantor's becoming aware thereof, Grantor shall notify TBCC of the institution of, or any adverse determination in, any proceeding in the United States Patent and Trademark Office, or any United States, state, or foreign court regarding Grantor's claim of ownership in any of the patents or trademarks, its right to apply for the same, or its right to keep and maintain such patent or trademark rights.

#### **6. POWER OF ATTORNEY.**

Grantor hereby appoints TBCC as Grantor's true and lawful attorney, with full power of substitution, to do any or all of the following, in the name, place and stead of Grantor: (a) file this Agreement (or an abstract hereof) or any other document describing TBCC's interest in the Collateral with the United States Patent and Trademark Office; (b) execute any modification of this Agreement pursuant to Section 4 of this Agreement; (c) take any action and execute any instrument which TBCC may deem necessary or advisable to accomplish the purposes of this Agreement; and (d) following an event of default, under any of the Guarantor Documents, (i) endorse Grantor's name on all applications, documents, papers and instruments necessary for TBCC to use or maintain the Collateral; (ii) ask, demand, collect, sue for, recover, impound, receive, and give acquittance and receipts for money due or to become due under or in respect of any of the Collateral; (iii) file any claims or take any action or institute any proceedings that TBCC may deem necessary or desirable for the collection of any of the Collateral or otherwise enforce TBCC's rights with respect to any of the Collateral, and (iv) assign, pledge, convey, or otherwise transfer title in or dispose of the Collateral to any person.

#### **7. RIGHT TO INSPECT.**

Grantor grants to TBCC and its employees and agents the right to visit Grantor's plants and facilities which manufacture, inspect, or store products sold under any of the patents or trademarks, and to inspect the products and quality control records relating thereto at reasonable times during regular business hours.

## **8. SPECIFIC REMEDIES.**

Upon the occurrence \* of any event of default under any of the Guarantor Documents, TBCC shall have, in addition to, other rights given by law or in this Agreement, or in any of the Guarantor Documents, all of the rights and remedies with respect to the Collateral of a secured party under the Code, including the following:

### **\*and during the continuance**

**8.1 Notification.** TBCC may notify licensees to make royalty payments on license agreements directly to TBCC;

**8.2 Sale.** TBCC may sell or assign the Collateral and associated goodwill at public or private sale for such amounts, and at such time or times as TBCC deems advisable. Any requirement of reasonable notice of any disposition of the Collateral shall be satisfied if such notice is sent to Grantor five (5) days prior to such disposition. Grantor shall be credited with the net proceeds of such sale only when they are actually received by TBCC, and Grantor shall continue to be liable for any deficiency remaining after the Collateral is sold or collected. If the sale is to be a public sale, TBCC shall also give notice of the time and place by publishing a notice one time at least five (5) days before the date of the sale in a newspaper of general circulation in the county in which the sale is to be held. To the maximum extent permitted by applicable law, TBCC may be the purchaser of any or all of the Collateral and associated goodwill at any public sale and shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any public sale, to use and apply all or any part of the Obligations as a credit on account of the purchase price of any collateral payable by TBCC at such sale.

## **9. GENERAL PROVISIONS.**

**9.1 Effectiveness.** This Agreement shall be binding and deemed effective when executed by Grantor and TBCC.

**9.2 Notices.** Except to the extent otherwise provided herein, all notices, demands, and requests that either party is required or elects to give to the other shall be in writing and shall be governed by the notice provisions of the Guarantor Documents.

**9.3 No Waiver.** No course of dealing between Grantor and TBCC, nor any failure to exercise nor any delay in exercising, on the part of TBCC, any right, power, or privilege under this Agreement or under the Guarantor Documents or any other agreement, shall operate as a waiver. No single or partial exercise of any right, power, or privilege under this Agreement or under the Guarantor Documents or any other agreement by TBCC shall preclude any other or further exercise of such right, power, or privilege or the exercise of any other right, power, or privilege by TBCC.

**9.4 Rights Are Cumulative.** All of TBCC's rights and remedies with respect to the Collateral whether established by this Agreement, the Guarantor Documents, or any other documents or agreements, or by law shall be cumulative and may be exercised concurrently or in any order.



**9.5 Successors.** The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties; provided that Grantor may not transfer any of the Collateral or any rights hereunder, without the prior written consent of TBCC, except as specifically permitted hereby.

**9.6 Severability.** The provisions of this Agreement are severable. If any provision of this Agreement is held invalid or unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such provision, or part thereof, in such jurisdiction, and shall not in any manner affect such provision or part thereof in any other jurisdiction, or any other provision of this Agreement in any jurisdiction.

**9.7 Entire Agreement.** This Agreement is subject to modification only by a writing signed by the parties, except as provided in Section 4 of this Agreement. To the extent that any provision of this Agreement conflicts with any provision of the Guarantor Documents, the provision giving TBCC greater rights or remedies shall govern, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to TBCC under the Guarantor Documents. This Agreement, the Guarantor Documents, and the documents relating thereto comprise the entire agreement of the parties with respect to the matters addressed in this Agreement.

**9.8 Fees and Expenses.** Grantor shall pay to TBCC on demand all costs and expenses that TBCC pays or incurs in connection with the negotiation, preparation, consummation, administration, enforcement, and termination of this Agreement, including: (a) reasonable attorneys' and paralegals' fees and disbursements of counsel to TBCC; (b) costs and expenses (including reasonable attorneys' and paralegals' fees and disbursements) for any amendment, supplement, waiver, consent, or subsequent closing in connection with this Agreement and the transactions contemplated hereby; (c) costs and expenses of lien and title searches; (d) taxes, fees, and other charges for filing this Agreement at the United States Patent and Trademark Office, or for filing financing statements, and continuations, and other actions to perfect, protect, and continue the security interest created hereunder; (e) sums paid or incurred to pay any amount or take any action required of Grantor under this Agreement that Grantor fails to pay or take; (f) costs and expenses of preserving and protecting the Collateral; and (g) costs and expenses (including reasonable attorneys' and paralegals' fees and disbursements) paid or incurred to enforce the security interest created hereunder, sell or otherwise realize upon the Collateral, and otherwise enforce the provisions of this Agreement, or to defend any claims made or threatened against the TBCC arising out of the transactions contemplated hereby (including preparations for the consultations concerning any such matters). The foregoing shall not be construed to limit any other provisions of this Agreement or the Guarantor Documents regarding costs and expenses to be paid by Grantor. The parties agree that reasonable attorneys' and paralegals' fees and costs incurred in enforcing any judgment are recoverable as a separate item in addition to fees and costs incurred in obtaining the judgment and that the recovery of such attorneys' and paralegals' fees and costs is intended to survive any judgment, and is not to be deemed merged into any judgment.

**9.9 Indemnity.** Grantor shall protect, defend, indemnify, and hold harmless TBCC and TBCC's assigns from all liabilities, losses, and costs (including without limitation reasonable attorneys' fees) incurred or imposed on TBCC relating to the matters in this Agreement.

**9.10 Further Assurances.** At TBCC's request, Grantor shall execute and deliver to TBCC any further instruments or documentation, and perform any acts, that may be reasonably necessary or appropriate to implement this Agreement, the Guarantor Documents or any other agreement, and the documents relating thereto, including without limitation any instrument or documentation reasonably necessary or appropriate to create, maintain, perfect, or effectuate TBCC's security interests in the Collateral.

**9.11 Release.** At such time as Grantor shall completely satisfy all of the Obligations and the Guarantor Documents shall be terminated, TBCC shall execute and deliver to Grantor all assignments and other instruments as may be reasonably necessary or proper to terminate TBCC's security interest in the Collateral, subject to any disposition of the Collateral which may have been made by TBCC pursuant to this Agreement. For the purpose of this Agreement, the Obligations shall be deemed to continue if Grantor enters into any bankruptcy or similar proceeding at a time when any amount paid to TBCC could be ordered to be repaid as a preference or pursuant to a similar theory, and shall continue until it is finally determined that no such repayment can be ordered.

**9.12 Governing Law.** THE VALIDITY, INTERPRETATION AND ENFORCEMENT OF THIS AGREEMENT AND ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER SOUNDING IN CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE GOVERNED BY THE INTERNAL LAWS AND DECISIONS OF THE STATE OF ILLINOIS. ALL DISPUTES BETWEEN THE GRANTOR AND TBCC, WHETHER SOUNDING IN CONTRACT, TORT, EQUITY OR OTHERWISE, SHALL BE RESOLVED ONLY BY STATE AND FEDERAL COURTS LOCATED IN CHICAGO, ILLINOIS, AND THE COURTS TO WHICH AN APPEAL THEREFROM MAY BE TAKEN; PROVIDED, HOWEVER, THAT TBCC SHALL HAVE THE RIGHT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, TO PROCEED AGAINST THE GRANTOR OR ITS PROPERTY IN ANY LOCATION REASONABLY SELECTED BY TBCC IN GOOD FAITH TO ENABLE TBCC TO REALIZE ON SUCH PROPERTY, OR TO ENFORCE A JUDGMENT OR OTHER COURT ORDER IN FAVOR OF TBCC.—~~THE GRANTOR AGREES THAT IT WILL NOT ASSERT ANY PERMISSIVE COUNTERCLAIMS, SETOFFS OR CROSS CLAIMS IN ANY PROCEEDING BROUGHT BY TBCC.~~ THE GRANTOR WAIVES ANY OBJECTION THAT IT MAY HAVE TO THE LOCATION OF THE COURT IN WHICH TBCC HAS COMMENCED A PROCEEDING, INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON FORUM NON CONVENIENS.

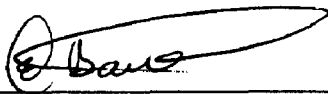
**9.13 Waiver of Right to Jury Trial.** TBCC AND GRANTOR EACH HEREBY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF, OR IN ANY WAY RELATING TO: (I) THIS AGREEMENT; OR (II) ANY OTHER PRESENT OR FUTURE INSTRUMENT OR AGREEMENT BETWEEN TBCC AND GRANTOR; OR (III) ANY CONDUCT, ACTS OR OMISSIONS OF TBCC OR GRANTOR OR ANY OF THEIR DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, ATTORNEYS OR ANY OTHER PERSONS AFFILIATED WITH TBCC OR GRANTOR; IN EACH OF THE FOREGOING CASES, WHETHER SOUNDING IN CONTRACT OR TORT OR OTHERWISE.

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

**TRANSAMERICA BUSINESS  
CREDIT CORPORATION**

By \_\_\_\_\_  
Title \_\_\_\_\_  
*Senior Vice President/  
General Manager*

**BACKWEB TECHNOLOGIES LTD.**

By   
Title \_\_\_\_\_

Version -0

# EXHIBIT A

## U.S. TRADEMARKS AND TRADEMARK APPLICATIONS

REGISTRATION No.	PENDING APPLICATION No.	MARK	REGISTRATION DATE	FILING DATE
	75-129,946	BACKWEB		07/03/96
	75-129,586	BACKWEB		07/03/96
	75-129,585	ZAPBACK		07/03/96
	75-129,576	ZAPBACK		07/03/96
	75-164,295	FUNFLASHERS		09/11/96
	75-164,294	SOFTFLASHES		09/11/96
	75-164,293	SOFTFLASHES		09/11/96
	75-164,210	FUNFLASHERS		09/11/96
	75-157,996	INFOPAK		08/29/96
	75-157,995	INFOFLASH		08/29/96
	75-157,987	INFOPAK		08/29/96
	75-157,986	INFOFLASH		08/29/96

EXHIBIT A



4. NEW ZEALAND

- (i) Trade-mark: HEADLINER  
Application No.: 273,515  
Wares: Computer software and multimedia publications (Class 9)  
Status: Registered May 12, 1998.
  
- (ii) Trade-mark: HEADLINER  
Application No.: 273,516  
Wares: Multimedia publications (Class 16)  
Status: Registered May 12, 1998.
  
- (iii) Trade-mark: HEADLINER  
Application No.: 273,517  
Services: Communications services by computer terminals, internet services and consulting services in relation to computers (Class 38)  
Status: Abandoned
  
- Trade-mark: HEADLINER  
Application No.: 273,518  
Services: computer programming and computer software development services (Class 42)  
Status: Abandoned

5. HONG KONG

- (i) Trade-mark: HEADLINER  
Application No.: 97/03399  
Wares: Computer software and multimedia publications (Class 9)  
Status: Abandoned
  
- (ii) Trade-mark: HEADLINER  
Application No.: 97/03398  
Wares: Multimedia publications (Class 16)  
Status: Abandoned
  
- (iii) Trade-mark: HEADLINER  
Application No.: 97/03397  
Services: Communications services by computer terminals, internet services and consulting services in relation to computers (Class 38)  
Status: Abandoned

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EXHIBIT A

(iv) Trade-mark: HEADLINER  
Application No.: 97/03396  
Services: computer programming and computer software development services (Class 42)  
Status: Abandoned

6. CHINA

(i) Trade-mark: HEADLINER  
Application No.: 97/0022401  
Wares: Computer software and multimedia publications (Class 9)  
Status: Abandoned

(ii) Trade-mark: HEADLINER  
Registration No.: 1168842  
Wares: Multimedia publications (Class 16)  
Registration Date: April 21, 1998

(iii) Trade-mark: HEADLINER  
Registration No.: 1185825  
Services: Communications services by computer terminals, internet services and consulting services in relation to computers (Class 38)  
Registration Date: June 21, 1998

(iv) Trade-mark: HEADLINER  
Registration No.: 1161787  
Services: Computer programming and computer software development services (Class 42)  
Registration Date: March 21, 1998

7. JAPAN

(i) Trade-mark: HEADLINER  
Application No.: 9-29337  
Wares: Computer software and multimedia publications (Class 9)  
Status: Response to examiner's report due February 20, 1999 (extendable until March 20, 1999 for a \$20.00 fee U.S.)

(ii) Trade-mark: HEADLINER  
Application No.: 9-29339  
Services: Communications services by computer terminals, internet services and consulting services in relation to computers (Class 38)  
Status: Paid registration fee; awaiting registration certificate

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EXHIBIT A

- (iii) Trade-mark: HEADLINER  
 Application No : 9-29340  
 Services: Computer programming and computer software development services (Class 42)  
 Status: Abandoned
  
- (iv) Trade-mark: HEADLINER  
 Application No.. 9-29338  
 Wares: Multimedia publications (Class 16)  
 Status: Abandoned

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EXHIBIT A

Exhibit "A"

**REGISTERED TRADEMARKS**

Trademark

Registration Date

Registration No.

**PENDING TRADEMARKS**



Exhibit "B"

**PATENTS AND PATENT APPLICATIONS**

RECORDED: 04/21/1999

TRADEMARK  
REEL: 1890 FRAME: 0055