

08-26-1999



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8-23-99

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

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/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)
City State/Country Zip Code

- Individual General Partnership Limited Partnership Corporation Association
- Corporation Association
- Other
- Citizenship/State of Incorporation/Organization

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.)

FOR OFFICE USE ONLY

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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
REEL: 001948 FRAME: 0529

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"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="1838566"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

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.

Mark E. Duell

8/17/99

Name of Person Signing

Signature

Date Signed

ASSET PURCHASE AGREEMENT

This Agreement is entered into this 16th day of January, 1996, by and among ASTUTE, INC., an Ohio corporation (the "Buyer") and SYSTEMWARE, INC., an Ohio corporation (the "Seller").

Recitals

A. Seller has been engaged in the business of computer and value-added software sales as a distributor of IBM computer equipment until November, 1995, when its distributorship relationship with IBM was terminated. As a consequence of such termination and the lack of adequate financial resources, Seller is unable to continue in business.

B. Seller desires to transfer its rights and interest in a software product under development known as "PowerCenter," for which Seller lacks the financial and technical resources to complete development into a commercial product. Seller acknowledges that the software will rapidly become valueless in a highly competitive marketplace unless development can be quickly completed, and that the loss of business reputation and prospective customers resulting from Seller's deteriorating financial condition and likely bankruptcy would likely destroy any market for the product. Seller also desires to dispose of its rights to its "CAMIS" software product, which is no longer commercially viable, but which serves the same market as is anticipated for the PowerCenter product.

C. Buyer is engaged in the business of software development and desires to acquire Seller's right and interest in the CAMIS software and the PowerCenter project.

Statement of Agreement

In consideration of the foregoing, and of their mutual promises contained herein, the parties agree as follows:

1. Purchase and Sale of Assets.

1.1. Description of Purchased Assets. Seller agrees to sell, and Buyer to purchase at the Closing (as defined in Section 1.4 below) all of Seller's right, title and interest in and to all of the following assets (the "Purchased Assets"):

(a) Seller's CAMIS and incomplete and undeliverable Power Center software, including the source code, object code, algorithms, flow charts, diagrams, file layouts, development tools, programming tools and documentation relating thereto (the "Call Center Software");

(b) All of Seller's interest in the license agreements relating to the CAMIS software, which are identified in Schedule 1.1(b) (the "Licenses");

(c) All patents, copyrights, trade secrets, know-how, trademarks, service marks, trade names and service names, and applications and registrations for patents, copyrights, trademarks, service marks, trade names and service names, related to the Call Center Software that are owned by Seller and used in connection with the operation of the Seller's business (including, but not limited to, the marks and names "CAMIS," "Power Center" and "Systemware") and all customer lists, customer prospects, mailing lists, books, records and files, and rights to telephone numbers related to the Call Center Software that are owned by Seller and used in Seller's business (the "Intangibles"); and

(d) Seller's interest in the end-user licenses for the Power Builder software identified in Schedule 1.1(d), including software development and programming tools, user manuals and other documentation related thereto (the "Licensed Software").

1.2. Assets and Liabilities Retained by Seller. All assets not expressly transferred to Buyer under the terms of this Agreement shall be retained by Seller, including without limitation, all right, title, and interest of Seller in and to any cash, cash equivalents, accounts, receivables, equipment, furniture, fixtures, or the proceeds of any thereof Seller shall retain, and Buyer will not assume, any liabilities of Seller's business, including any liabilities which may in any way be related to the Purchased Assets.

1.3. Payment of Purchase Price. In consideration of the sale, transfer, conveyance, assignment and delivery of the Purchased Assets by Seller to Buyer, and in reliance upon the representations and warranties made herein by Seller, Buyer shall pay Seller the purchase price (the "Purchase Price") for the Purchased Assets of Fifteen Thousand Dollars (\$15,000.00), plus royalties of five percent (5%) of revenues realized from the sale or licensing to end users of the Call Center Software over a period of five (5) years from the date of the Closing, but not to exceed Seventy Thousand Dollars (\$70,000.00) in the aggregate over such period. The cash portion of the purchase price shall be paid in three (3) equal installments of Five Thousand Dollars (\$5,000.00), with the first installment payable at the Closing, the second installment sixty (60) days following the Closing, and the final installment one hundred twenty (120) days following the Closing.

1.4 Closing. The closing of the transactions contemplated by this Agreement (the "Closing") shall be held on January 16, 1996 at 10:00 a.m., in the offices of Porter, Wright, Morris & Arthur, 41 South High Street, Suite 2900, Columbus, Ohio 43215, or such other place and time as may be mutually agreed by the parties. At the Closing, Seller shall transfer to Buyer, free and clear of any incumbrances, with warranties of title, all of the Purchased Assets.

2. Representations and Warranties of Seller. Seller warrants and represents to and covenants with Buyer and its successors and assigns as follows:

2.1. Organization, etc. Seller is a corporation, duly organized, validly existing and in good standing under the laws of the State of Ohio, and has all requisite corporate power and authority to carry on its business as now presently conducted and as proposed to be conducted.

2.2. Validity and Execution of Agreement. Seller has full legal right, capacity and power and all requisite corporate authority and approval required to enter into, execute and deliver this Agreement and to perform fully its obligations hereunder. The board of directors of Seller has approved the transactions contemplated pursuant to this Agreement. This Agreement has been duly executed and delivered by Seller and constitutes the valid and binding obligation of Seller enforceable against Seller in accordance with its terms, subject to the qualifications that enforcement of the rights and remedies created hereby may be subject to (i) bankruptcy, insolvency, reorganization, moratorium and other laws of general application affecting the rights and remedies of creditors and (ii) general principles of equity.

2.3. No Violation. To the best of Seller's knowledge and belief, the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby do not and will not:

(a) violate, conflict with or result in a breach of or default under any of the terms, provisions or conditions of the articles of incorporation or bylaws of Seller or any statute, regulation or court or administrative order or process, or any agreement or instrument to which Seller is a party or by or to which any of its properties or assets, is bound;

(b) result in the creation of any lien, charge or encumbrance upon any of the Purchased Assets;

(c) terminate, delay or give any party thereto the right to terminate, delay, amend, abandon, or refuse to perform any provision of any agreement or instrument assigned to Buyer as part of the Purchased Assets;

(d) accelerate or give any party thereto the right to accelerate or modify the time within which, or the terms under which, Seller is to perform any such agreement or instrument; or

(e) require the consent of any other person or entity to the transfer to Buyer, or the purchase by Buyer, pursuant to this Agreement of the Purchased Assets other than the consents obtained by Seller and delivered prior to the Closing.

2.4. Good Title. Seller has good and marketable title to the Purchased Assets, and is conveying them to Buyer, free of any mortgages, pledges, liens or other encumbrances of any kind.

2.5. Survival. All of the representations and warranties of Seller contained herein shall, notwithstanding any investigation at any time made by or on behalf of Buyer, survive the Sale Date and remain in full force and effect.

3. Miscellaneous.

3.1. Applicable Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Ohio.

3.2. Binding Effect. This Agreement shall be binding upon the heirs, successors and permitted assigns of the respective parties hereto.

3.3. Assignment. This Agreement, and the rights and obligations contained herein, may not be assigned by either party without the express written consent of the other party.

3.4. Parties in Interest. Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties hereto and their respective heirs, successors and permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any provision give any third party any right of subrogation over or action against any party to this Agreement.

3.5. Waiver. Any provision of this Agreement may be waived in writing at any time by the party which is entitled to the benefit of such provision.

3.6. Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same Agreement, and shall become effective when one or more counterparts have been signed by each of the parties to this Agreement.

3.7. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Agreement.

3.8. Entire Agreement. This Agreement, which includes the Schedules hereto and the other documents, agreements and instruments executed and delivered pursuant to or in connection with this Agreement, contains the entire agreement between Seller and Buyer with respect to the transactions contemplated by this Agreement and supersedes all prior arrangements or understandings with respect thereto.

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


BUYER:

ASTUTE, INC., an Ohio corporation

By: 
Joseph M. Sanda, President

SELLER:

SYSTEMWARE, INC., an Ohio corporation

By: 
Eric D. Moen, President