

MKP
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12-29-1999

U.S. Patent & TMO/TM Mail Rpt Dt. #26

02-08-2000



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RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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Submission Type

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

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

RECEIVED
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 1999 DEC 22
 EXECUTION DATE
 MONTH DAY YEAR
 A 9:30

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

11-30-99

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)

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

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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 Assignment.)

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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="75/442,149"/> | <input type="text" value="75/586,958"/> | <input type="text"/> | <input type="text" value="2,262,607"/> | <input type="text" value="2,277,928"/> | <input type="text"/> |
| <input type="text" value="75/515,732"/> | <input type="text" value="75/174,896"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |
| <input type="text" value="75/586,957"/> | <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

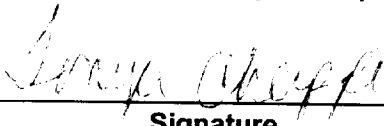
No

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.

TONYA CHAPPLE

Name of Person Signing



Signature

12-23-99

Date Signed

SECURITY AGREEMENT

THIS SECURITY AGREEMENT (this "**Agreement**") is made as of November 30, 1999 by and between **MARKETSWITCH CORPORATION**, a Delaware corporation (the "**Grantor**"), with an address at 108 Powers Court, Suite 225, Dulles, Virginia 20166, and **PNC BANK, NATIONAL ASSOCIATION** (the "**Bank**") with an address at 600 Grant Street, 29th Floor, Pittsburgh, Pennsylvania 15219.

Under the terms hereof, the Bank desires to obtain and the Grantor desires to grant to the Bank security for the complete payment and performance of the Obligations.

NOW, THEREFORE, the Grantor and the Bank, for good and valuable consideration, the receipt and sufficiency of which the parties hereby acknowledge, and intending to be legally bound, hereby agree as follows:

1. Definitions.

In addition to the other terms defined in this Section 1, initially capitalized terms used and not otherwise defined herein shall have the meanings ascribed to them in the Loan Agreement (as defined below).

(a) "**Collateral**" means and shall include all personal property of the Grantor, including without limitation the following, all whether now owned or hereafter acquired or arising: (i) accounts, accounts receivable, contract rights, chattel paper, notes receivable, instruments and documents (including warehouse receipts), and Grantor's accounts with the Bank; (ii) goods of every nature, including without limitation, inventory, stock-in-trade, raw materials, work in process, items held for sale or lease or furnished or to be furnished under contracts of sale or lease, goods that are returned, reclaimed or repossessed, together with materials used or consumed in the Grantor's business; (iii) equipment, including, without limitation, machinery, vehicles, furniture and fixtures; (iv) general intangibles, of every kind and description, including, but not limited to, all existing and future customer lists, choses in action, claims (including without limitation claims for indemnification or breach of warranty), books, records, patents and patent applications (including, without limitation the Patent Collateral as described and defined in the Rider to Security Agreement - Patents that may be entered into between and among the Grantor and the Bank in the future, copyrights (including, without limitation the Copyrights as described and defined in any Rider to Security Agreement - Copyrights between the Grantor and the Bank of even date herewith, trademarks (including, without limitation, the Trademarks as described and defined in the Rider to Security Agreement - Trademarks between Grantor and Bank of even date herewith, tradenames, tradestyles, trademark applications, goodwill, blueprints, drawings, designs and plans, trade secrets, contracts, licenses, license agreements, formulae, tax and any other types of refunds, returned and unearned insurance premiums, rights and claims under insurance policies, and computer information, software, source codes, object codes, records and data; (v) all property of the Grantor now or hereafter in the Bank's possession or in transit to or from, under the custody or

control of or on deposit with, the Bank or any affiliate thereof, including deposit and other accounts; (vi) all cash and cash equivalents; and (vii) all cash and non-cash proceeds (including without limitation, insurance proceeds) of all of the foregoing property, all products thereof and all additions and accessions thereto, substitutions therefor and replacements thereof; provided, however, that in each case of the grant by the Grantor of a security interest pursuant to this Agreement in its right, title and interest in any contract, agreement, instrument or indenture, only to the extent that the granting thereof (A) is not prohibited by such contract, agreement, instrument or indenture without the consent of any other party thereto, (B) would not give any other party to such contract, agreement, instrument or indenture the right to terminate its obligations thereunder, or (C) is permitted with consent if all necessary consents to such grant of a security interest have been obtained from other parties thereto, provided, that the foregoing proviso shall not affect, limit, restrict or impair the grant by the Grantor of a security interest pursuant to this Agreement in any account or any money or other amounts due or to become due under any such contract, agreement, instrument or indenture.

(b) **“Loan Agreement”** means that Loan Agreement of even date herewith between the Grantor and the Bank.

(c) **“Loan Documents”** means this Agreement, the Loan Agreement, any and all notes evidencing the Obligations and all related documents, instruments and agreements.

(d) **“Obligations”** shall have the meaning set forth in the Loan Agreement.

2. **Grant of Security Interest.** To secure the complete payment and performance of the Obligations, the Grantor, as debtor, hereby assigns and grants to the Bank, as secured party, a continuing first priority lien on and security interest in the Collateral.

3. **Change in Name or Locations.** The Grantor hereby agrees that if the location of any material Collateral changes from the locations listed on Exhibit A hereto and made part hereof, or if the Grantor changes its name or form of organization, or establishes a name in which it plans to do business that is not listed as a tradename on Exhibit A hereto, the Grantor will as promptly as practicable notify the Bank in writing of the additions or changes. As of the date hereof, the Grantor’s chief executive office is as shown on Exhibit A hereto.

4. **Representations, Warranties and Covenants Concerning Collateral.** Except as disclosed in or permitted under the Loan Agreement, the Grantor represents, warrants and covenants to the Bank as follows:

(a) The Grantor has not made any prior agreement for the sale, pledge, encumbrance, assignment or other disposition of any of the Collateral which is currently effective and the Collateral is free from all encumbrances and rights of setoff of any kind other than Permitted Liens.

(b) The Grantor will not hereafter without prior written consent of the Bank sell, pledge, encumber, assign or otherwise dispose of any of the Collateral or permit any right of

setoff, lien or security interest to exist thereon except to the Bank or a Permitted Lien or as permitted by Section 6.5 of the Loan Agreement.

(c) The Grantor will take all commercially reasonable actions to defend the Collateral against all claims and demands of all persons at any time claiming the same or any interest therein.

(d) Each account and general intangible, if included in the definition of Collateral, is genuine and enforceable in accordance with its terms and the Grantor will take all commercially reasonable actions to defend the same against all claims, demands, setoffs and counterclaims at any time asserted.

(e) At the time any account or general tangible becomes subject to this Agreement, such account or general intangible will be a good and valid account representing a bona fide sale of goods or services by the Grantor and such goods will have been shipped to the respective account debtors or the services will have been performed for the respective account debtors, and no such account or general intangible will be subject to any claim for credit, allowance or adjustment by any account debtor or any setoff, defense or counterclaim.

(f) From time to time and at all reasonable times allow the Bank, with reasonable prior notice so long as an Event of Default does not exist, by or through any of its officers, agents, attorneys, or accountants, to examine or inspect the Collateral, notify (at any time after the occurrence and during the continuance of an Event of Default) account debtors of the Bank's security interest in accounts and obtain valuations and audits of the Collateral, wherever located, not more than once annually at Grantor's expense, if more than once annually at the Bank's expense.

(g) The Grantor shall do, obtain, make, execute and deliver all such additional and further acts, things, deeds, assurances and instruments as the Bank may reasonably require to vest in and assure to the Bank its rights hereunder and in or to the Collateral, and the proceeds thereof, including, but not limited to, waivers from landlords, warehousemen and mortgagees.

(h) The Grantor shall keep the Collateral in good order and repair at all times, ordinary wear and tear and obsolescence excepted, and immediately notify Bank of an event causing a material loss or decline in value of the Collateral whether or not covered by insurance and the amount of such loss or depreciation.

(i) The Grantor shall use or permit the Collateral to be used only in accordance with all applicable federal, state, county and municipal laws and regulations.

(j) The Grantor shall have and maintain insurance at all times with respect to all Collateral as required under the Loan Agreement. The policies of all such casualty insurance shall contain standard Lender's Loss Payable Clauses issued in favor of the Bank under which all losses thereunder shall be paid to the Bank as the Bank's interest may appear. Such policies shall expressly provide that the requisite insurance cannot be altered or canceled without at least thirty (30) days prior written notice to the Bank and shall insure the Bank notwithstanding the act or

neglect of the Grantor. Upon demand of the Bank, the Grantor shall furnish the Bank with duplicate original policies of insurance or such other evidence of insurance as the Bank may reasonably require. In the event the Grantor fails to maintain insurance as herein provided, the Bank may, at its option, obtain such insurance and the Grantor shall pay to the Bank, on demand, the cost thereof. Proceeds of insurance may be applied by the Bank to reduce the Obligations or to repair or replace Collateral, all in the Bank's sole discretion.

(k) If the Grantor adopts, uses or files an application for the registration of any patent, the Grantor shall (a), within a reasonable time thereafter, deliver written notice of such fact to the Bank, and (b), at the request of the Bank, join with the Bank in executing a Rider to Security Agreement – Patents in the form attached hereto as Exhibit B with respect to such patent.

5. **Negative Pledge; No Transfer.** Except as described in or permitted under the Loan Agreement and except for Permitted Liens, the Grantor will not sell or offer to sell or otherwise transfer or grant or suffer the imposition of a lien or security interest upon the Collateral (except for sales of inventory and collections of accounts in the Grantor's ordinary course of business or as permitted by Section 6.5 of the Loan Agreement) or use any portion thereof in any manner inconsistent with this Agreement or with the terms and conditions of any policy of insurance thereon.

6. **Covenants for Accounts.** If accounts are included in the definition of Collateral:

(a) The Grantor will, on reasonable demand of the Bank, make notations on its books and records showing the security interest of the Bank and make available to the Bank shipping and delivery receipts evidencing the shipment of the goods that gave rise to an account, completion certificates or other proof of the satisfactory performance of services that gave rise to an account, a copy of the invoice for each account and copies of any written contract or order from which an account arose. The Grantor shall promptly notify the Bank if an account in excess of \$10,000 becomes evidenced or secured by an instrument or chattel paper and upon request of the Bank, will promptly deliver any such instrument or chattel paper to the Bank, including without limitation, any letter of credit delivered to the Grantor to support a shipment of inventory by the Grantor.

(b) The Grantor will within 30 days advise the Bank whenever an account debtor refuses to retain or returns any goods from the sale of which an account arose in excess of \$50,000 and will comply with any reasonable instructions that the Bank may give regarding the sale or other disposition of such returns.

(c) The Grantor will notify the Bank on a monthly basis, or if not previously reported to the Bank, at the time of the Grantor's request for a loan under the Loan Agreement, of any accounts which arise out of contracts with the United States or any department, agency or instrumentality thereof which have been added to the Borrowing Base, and will, upon the request of the Bank, execute any instruments and take any steps reasonably required by the Bank so that all monies due and to become due under such contract shall be assigned to the Bank and notice

thereof given to and acknowledged by the appropriate government agency or authority under the Federal Assignment of Claims Act of 1940, as amended, or other applicable Law.

(d) Upon the occurrence and during the continuance of an Event of Default, and without notice to the Grantor the Bank may notify any persons who are indebted to the Grantor on any Collateral consisting of accounts or general intangibles of the assignment thereof to the Bank and may direct such account debtors to make payment directly to the Bank of the amounts due. Upon the occurrence and during the continuance of an Event of Default, at the request of the Bank, the Grantor will direct any persons who are indebted to the Grantor on any Collateral consisting of accounts or general intangibles to make payment directly to the Bank. The Bank is authorized to give receipts to such account debtors for any such payments and the account debtors will be protected in making such payments to the Bank.

7. **Further Assurances.** At the request of the Bank, the Grantor will join with the Bank in executing one or more financing, continuation or amendment statements pursuant to the Uniform Commercial Code in form satisfactory to the Bank and will pay the cost of preparing and filing the same in all jurisdictions in which such filing is deemed by the Bank to be necessary or desirable. A carbon, photographic or other copy of this Agreement or of a UCC-1 financing statement may be filed as and in lieu of a UCC-1 financing statement.

8. **Events of Default.** The Grantor shall, at the option of the Bank, be in default under this Agreement upon the happening of any of the following events or conditions (each, an “**Event of Default**”): (a) the failure by the Grantor to perform any of its obligations under this Agreement which failure has not been cured within 10 days after written notice to the Grantor, (b) an Event of Default (as defined in the Loan Agreement) under the Loan Agreement, (c) an Event of Default (as defined therein) under any of the other Loan Documents; (d) material falsity, material inaccuracy or material breach by the Grantor of any written warranty, representation or statement made or furnished to the Bank by or on behalf of the Grantor; or (e) except as disclosed in the Addendum to or as permitted under the Loan Agreement, the failure of the Bank to have a perfected first priority security interest in the Collateral (excluding perfection of security interests in vehicles or other mobile equipment covered by a certificate of title, the perfection of which requires notification of such security interest on, or physical delivery of, such certificate), unless (i) such failure results from the negligence of the Bank, (ii) no other person has a perfected security interest in such Collateral, and (iii) no other Event of Default exists and is continuing .

9. **Remedies.** Upon the occurrence of an Event of Default described in Section 7.5 of the Loan Agreement, all Obligations secured hereby shall become immediately due and payable, without presentment, demand, notice, declaration, protest or other requirements of any kind, all which are expressly waived by the Grantor. Upon the occurrence and continuance of an Event of Default other than as described in Section 7.5 of the Loan Agreement, the Bank may provide written notice to the Grantor stating that an Event of Default has occurred and declaring all Obligations secured hereby immediately due and payable, without further notice, presentment, demand, declaration, protest, or other requirements of any kind, all which are expressly waived by the Grantor. Upon the occurrence and continuance of an Event of Default, and irrespective of whether the Obligations have been declared due and payable

pursuant to the immediately preceding sentence, the Bank will have, in addition to all rights and remedies provided for herein or in the other Loan Documents or by any applicable law or in equity, all the remedies of a secured party under the Uniform Commercial Code.

10. Power of Attorney. (a) The Grantor does hereby make, constitute and appoint any officer or agent of the Bank as the Grantor's true and lawful attorney-in-fact, with power to endorse the name of the Grantor or any of the Grantor's officers or agents upon any notes, checks, drafts, money orders, or other instruments of payment or Collateral that may come into the possession of the Bank in full or part payment of any amounts owed to the Bank granting to the Grantor's said attorney full power to do any and all things necessary to be done in and about the premises as fully and with the same effect as the Grantor might or could do, including the right to sign, for the Grantor, UCC-1 financing statements and UCC-3 Statements of Change and to sue for, compromise, settle and release all claims and disputes with respect to the Collateral. The Grantor hereby ratifies all that said attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest, and is irrevocable for the life of this Security Agreement and the Loan Documents, and until all the Obligations are satisfied in full.

(b) Notwithstanding anything in the Loan Documents to the contrary, the Bank will not exercise any rights under the power of attorney provided in Section 10(a) unless an Event of Default has occurred and is continuing.

11. Payment of Expenses. In the event that the Grantor fails to do so on a timely basis, the Bank may, at its option, discharge taxes, liens, security interests or such other encumbrances as may attach to the Collateral, may pay for required insurance on the Collateral and may pay for the maintenance, appraisal or reappraisal, and preservation of the Collateral, as reasonably determined by the Bank to be necessary. The Grantor will reimburse the Bank on demand for any payment so made or any expense incurred by the Bank pursuant to the foregoing authorization, and the Collateral also will secure any advances or payments so made or expenses so incurred by the Bank.

12. Notices. All notices, demands, requests, consents, approvals and other communications required or permitted hereunder must be in writing and will be effective upon receipt if delivered personally to such party, or if sent by facsimile transmission with confirmation of delivery, or by nationally recognized overnight courier service, to the address set forth above or to such other address as any party may give to the other in writing for such purpose.

13. Preservation of Rights. No delay or omission on the part of the Bank to exercise any right or power arising hereunder will impair any such right or power or be considered a waiver of any such right or power or any acquiescence therein, nor will the action or inaction of the Bank impair any right or power arising hereunder. The Bank's rights and remedies hereunder are cumulative and not exclusive of any other rights or remedies which the Bank may have under other agreements, at law or in equity.

14. **Illegality.** In case any one or more of the provisions contained in this Agreement should be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby.

15. **Changes in Writing.** No modification, amendment or waiver of any provision of this Agreement nor consent to any departure by the Grantor therefrom, will in any event be effective unless the same is in writing and signed by the Bank, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Grantor in any case will entitle the Grantor to any other or further notice or demand in the same, similar or other circumstance.

16. **Entire Agreement.** This Agreement (including the Riders hereto and the other documents and instruments referred to herein) constitutes the entire agreement and supersedes all other prior agreements and understandings, both written and oral, between the parties with respect to the subject matter hereof.

17. **Counterparts.** This Agreement may be signed in any number of counterpart copies and by the parties hereto on separate counterparts, but all such copies shall constitute one and the same instrument.

18. **Successors and Assigns.** This Agreement will be binding upon and inure to the benefit of the Grantor and the Bank and their respective heirs, executors, administrators, successors and assigns; provided, however, that the Grantor may not assign this Agreement in whole or in part without the prior written consent of the Bank and the Bank at any time may assign this Agreement in whole or in part upon prior written consent of the Grantor.

19. **Interpretation.** In this Agreement, unless the Bank and the Grantor otherwise agree in writing, the singular includes the plural and the plural the singular; words importing any gender include the other genders; references to statutes are to be construed as including all statutory provisions consolidating, amending or replacing the statute referred to; the word "or" shall be deemed to include "and/or", the words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; references to articles, sections (or subdivisions of sections) or exhibits are to those of this Agreement unless otherwise indicated. Section headings in this Agreement are included for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

20. **Indemnity.** The Grantor agrees to indemnify each of the Bank, its directors, officers and employees and each legal entity, if any, who controls the Bank (the "**Indemnified Parties**") and to hold each Indemnified Party harmless from and against any and all claims, damages, losses, liabilities and expenses (including, without limitation, all reasonable fees of counsel with whom any Indemnified Party may consult and all expenses of litigation or preparation therefor) which any Indemnified Party may incur or which may be asserted against any Indemnified Party by any third person, entity or governmental authority as a result of the execution of or performance under this Agreement; provided, however, that the foregoing indemnity agreement shall not apply to claims, damages, losses, liabilities and expenses solely

attributable to an Indemnified Party's gross negligence or willful misconduct. The indemnity agreement contained in this Section shall survive the termination of this Agreement. The Grantor may participate at its expense in the defense of any such claim.

21. Governing Law.

THIS AGREEMENT HAS BEEN DELIVERED TO AND ACCEPTED BY THE BANK AND WILL BE DEEMED TO BE MADE IN THE COMMONWEALTH OF PENNSYLVANIA. THIS AGREEMENT WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, EXCEPT THAT THE LAWS OF THE STATE WHERE ANY COLLATERAL IS LOCATED (IF DIFFERENT FROM THE COMMONWEALTH OF PENNSYLVANIA) SHALL GOVERN THE CREATION, PERFECTION AND FORECLOSURE OF THE LIENS CREATED HEREUNDER ON SUCH PROPERTY OR ANY INTEREST THEREIN.

22. Choice of Forum.

THE GRANTOR HEREBY IRREVOCABLY CONSENTS TO THE EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT FOR ALLEGHENY COUNTY OR THE WESTERN DISTRICT OF PENNSYLVANIA, AS THE CASE MAY BE, AND CONSENTS THAT ALL SERVICE OF PROCESS BE SENT BY NATIONALLY RECOGNIZED OVERNIGHT COURIER SERVICE DIRECTED TO THE GRANTOR AT THE GRANTOR'S ADDRESS SET FORTH HEREIN AND SERVICE SO MADE WILL BE DEEMED TO BE COMPLETED ON THE BUSINESS DAY AFTER DEPOSIT WITH SUCH COURIER; PROVIDED THAT NOTHING CONTAINED IN THIS AGREEMENT WILL PREVENT THE BANK FROM BRINGING ANY ACTION, ENFORCING ANY AWARD OR JUDGMENT OR EXERCISING ANY RIGHTS AGAINST THE GRANTOR INDIVIDUALLY, AGAINST ANY SECURITY OR AGAINST ANY PROPERTY OF THE GRANTOR WITHIN ANY OTHER COUNTY, STATE OR OTHER FOREIGN OR DOMESTIC JURISDICTION. THE BANK AND THE GRANTOR AGREE THAT THE VENUE PROVIDED ABOVE IS THE MOST CONVENIENT FORUM FOR BOTH THE BANK AND THE GRANTOR. THE GRANTOR WAIVES ANY OBJECTION TO VENUE AND ANY OBJECTION BASED ON A MORE CONVENIENT FORUM IN ANY ACTION INSTITUTED UNDER THIS AGREEMENT.

23. Waiver Of Jury Trial.

EACH OF THE GRANTOR AND THE BANK IRREVOCABLY WAIVES ANY AND ALL RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM OF ANY NATURE RELATING TO THIS AGREEMENT, ANY DOCUMENTS EXECUTED IN CONNECTION WITH THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED IN ANY OF SUCH DOCUMENTS. THE GRANTOR AND THE BANK ACKNOWLEDGE THAT THE FOREGOING WAIVER IS KNOWING AND VOLUNTARY.

[Signature Pages to Follow]

WITNESS the due execution of this Security Agreement as a document under seal, as of the date first written above.

MARKETSWITCH CORPORATION

By: *Barbara H. Bell* (SEAL)

Print Name: Barbara H. Bell

Title: VP, Financial Controls Admin

PNC BANK, NATIONAL ASSOCIATION

By: *Katharine S. Kappler* (SEAL)

Print Name: Katharine S. Kappler

Title: Vice President

Exhibits:

A - Names and Locations

B - Rider to Security Agreement - Patents

EXHIBIT A

Address of Grantor's chief executive office, including the County:

108 Powers Court, Suite 225
Dulles, Virginia 20166
Loudoun County

Address for books and records, if different:

 N/A

Addresses of other Collateral locations, including Counties and name and address of landlord or owner if location is not owned by the Grantor:

10 Talcot Notch, Suite 105
Farmington, CT 06032
Hartford County

Other fictitious names or tradenames now or formerly used by the Grantor: None

EXHIBIT A

Address of Grantor's chief executive office, including the County:

108 Powers Court, Suite 225
Dulles, Virginia 20166
Loudoun County

Address for books and records, if different:

N/A

Addresses of other Collateral locations, including Counties and name and address of landlord or owner if location is not owned by the Grantor:

10 Talcot Notch, Suite 105
Farmington, CT 06032
Hartford County

Other fictitious names or tradenames now or formerly used by the Grantor: The Borrower does not now and has not in the past used a fictitious or tradename. Prior to September 29, 1998, the corporate name of the Borrower was RTH Corporation.

RIDER TO SECURITY AGREEMENT - COPYRIGHTS

THIS RIDER TO SECURITY AGREEMENT ("Rider") is executed as of November 30, 1999 by and between **MARKETSWITCH CORPORATION** (the "**Grantor**"), with an address at 108 Powers Court, Suite 225, Dulles, Virginia 20166 and **PNC BANK, NATIONAL ASSOCIATION** (the "**Bank**"), with an address at 600 Grant Street, 29th Floor, Pittsburgh, Pennsylvania 15219. This Rider is incorporated into and made part of that certain Security Agreement by and between the Grantor and the Bank dated as of November 30, 1999 (as the same may be modified, amended or restated, the "**Security Agreement**").

Initially capitalized terms used and not otherwise defined in this Rider shall have the same meanings ascribed to such terms in the Security Agreement.

The Grantor has created (and has registered or has filed applications for the registration of) the copyrights listed on Schedule A to the Copyright Assignment attached hereto as Exhibit A (the "**Copyright Assignment**") (all such copyrights hereinafter referred to as the "**Copyrights**").

The Grantor desires to assign the Copyrights and the registration thereof, together with all the goodwill of Grantor associated therewith and represented thereby, as security for the Grantor's Obligations, and the Bank desires to have its security interest in such Copyrights confirmed by a document identifying same and in such form that it may be recorded in the Library of Congress, Copyright Office.

NOW, THEREFORE, with the foregoing background deemed incorporated by reference and made part hereof, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. Grant of Security Interest. In consideration of and pursuant to the terms of the Loan Documents, and for other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, and to secure the Grantor's present and future Obligations, the Grantor grants and assigns to the Bank a lien and security interest in all of Grantor's present and future right, title and interest in and to the Copyrights, and the registration thereof and the right (but not the obligation) to sue for past, present and future infringements, and the proceeds thereof, including, without limitation, license royalties and proceeds of infringement suits.

2. Maintenance of Copyrights. The Grantor hereby covenants and agrees to maintain the Copyrights in full force and effect until all of the Grantor's liabilities and obligations to the Bank are satisfied in full except for Copyrights that expire automatically upon completion of their terms or as permitted by Section 10(a).

3. Representations and Warranties. The Grantor represents, warrants and covenants that: (a) the Copyrights are subsisting and have not been adjudged invalid or unenforceable; (b) the Grantor has no notice of any suits or actions commenced or threatened

against it, or notice of claims asserted or threatened against it, with reference to the Copyrights and the interests granted herein, including, without limitation, any claim, suit or action alleging or asserting that a Copyright is not valid or enforceable, and the Grantor has no knowledge of a factual basis for any such claim, suit or action; (c) except as otherwise provided in the Loan Documents, (i) to the Grantors knowledge, the Grantor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Copyrights, and (ii) each of the Copyrights is free and clear of any liens, charges, licenses (except for non-exclusive licenses granted in the ordinary course of business), and encumbrances, including, without limitation, pledges, assignments and covenants by the Grantor not to sue third persons; (d) the Grantor has full corporate power and authority to enter into this Rider and perform its terms; and (e) the Grantor has used, and will continue to use for the duration of this Rider, proper statutory notice in connection with its use of the Copyrights.

4. Covenants. The Grantor further covenants that: (a) until all of the Obligations have been satisfied in full, it will not enter into any agreement which is inconsistent with the Grantor's obligations under this Rider; and (b) if the Grantor acquires rights to any new Copyrights, the provisions of this Rider shall automatically apply thereto and the Grantor shall give the Bank prompt written notice thereof along with an amended Schedule A to the Copyright Assignment.

5. Exclusive Use of Copyrights. So long as this Rider is in effect and so long as the Grantor has not received notice from the Bank that an Event of Default has occurred under the Loan Documents and that the Bank has elected to exercise its rights to assignment hereunder, the Grantor shall continue to own the Copyrights and to have the right to the exclusion of the Bank to use the Copyrights and to grant non-exclusive licenses with respect thereto in the ordinary course of business, and the Bank shall have no right to use the Copyrights or issue any exclusive or non-exclusive license with respect thereto, or assign, pledge or otherwise transfer title in the Copyrights to anyone else.

6. Remedies Upon Default. (a) Anything herein contained to the contrary notwithstanding, if and while the Grantor shall be in default hereunder or an Event of Default exists under the other Loan Documents, the Grantor hereby covenants and agrees that the Bank as the holder of a security interest under the Uniform Commercial Code, as now or hereafter in effect in Pennsylvania, may take such action permitted under the Loan Documents or permitted by law, in its exclusive discretion, to foreclose upon the Copyrights covered hereby.

(b) For such purposes, and in the event of an Event of Default under the Loan Documents and while such Event of Default exists, the Grantor hereby authorizes and empowers the Bank to make, constitute and appoint any officer or agent of the Bank as the Bank may select, in its exclusive discretion, as the Grantor's true and lawful attorney-in-fact, with the power to endorse the Grantor's name on all applications, documents, papers and instruments necessary for the Bank to use the Copyrights or to grant or issue any exclusive or non-exclusive license under the Copyrights to anyone else, or necessary for the Bank to assign, pledge, convey or otherwise transfer title in or dispose of the Copyrights to anyone else. The Grantor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof, except for the gross

negligence or willful misconduct of such attorney. This power of attorney shall be irrevocable for the life of this Rider and the other Loan Documents, and until all the Obligations (as defined in the Security Agreement) are satisfied in full.

(c) The Grantor expressly acknowledges that Bank shall record this Rider with the United States Library of Congress, Copyright Office in Washington, D.C. Contemporaneously herewith, the Grantor shall also execute and deliver to the Bank the conditional Copyright Assignment in the form attached hereto as Exhibit A, which assignment shall have no force and effect and shall be held by the Bank, in escrow, until the occurrence of a default hereunder or an Event of Default under the other Loan Documents. After such occurrence, the Copyright Assignment shall take effect immediately upon certification of such fact by an authorized officer of the Bank in the form reflected on the face of the Copyright Assignment and the Bank may, at its sole option, record the Copyright Assignment with the United States Library of Congress, Copyright Office.

7. Subject to Security Agreement. This Rider shall be subject to the terms, provisions, and conditions set forth in the Security Agreement and may not be modified without the written consent of the party against whom enforcement is being sought.

8. Inconsistency with Security Agreement. All rights and remedies herein granted to the Bank shall be in addition to any rights and remedies granted to the Bank under the Security Agreement. In the event of an inconsistency between this Rider and the Security Agreement, the language of the Security Agreement shall control. The terms and conditions of the Security Agreement are hereby incorporated herein by reference.

9. Termination of Agreement. Upon payment and performance of all Obligations, the Bank shall immediately execute and deliver to the Grantor all documents necessary to terminate the Bank's security interest in the Copyrights and deliver to the Grantor the original and all copies of the previously executed Copyright Assignment.

10. Prosecution of Copyright Applications. (a) Subject to the terms of the Loan Agreement, the Grantor shall have the duty to prosecute diligently any copyright application with respect to the Copyrights pending as of the date of this Rider or thereafter, until the Obligations shall have been satisfied in full, to preserve and maintain all rights in the Copyrights, and upon reasonable request of the Bank, the Grantor shall make federal application on registrable but unregistered copyrights belonging to the Grantor. Any reasonable expenses incurred in connection with such applications shall be borne by the Grantor. The Grantor shall not abandon any Copyright registration without the written consent of the Bank, except with respect to any Copyright that the Grantor reasonably determines is of negligible economic value to it.

(b) The Grantor shall have the right to bring suit in its own name to enforce the Copyrights, in which event the Bank may, if the Grantor deems it necessary or after and during the continuance of an Event of Default under the Loan Documents, be joined as a nominal party to such suit if the Bank shall have been satisfied that it is not thereby incurring any risk of liability because of such joinder. The Grantor shall promptly, upon demand, reimburse and

indemnify the Bank for all damages, reasonable costs and reasonable expenses, including attorneys' fees, incurred by the Bank in the fulfillment of the provisions of this paragraph.

11. Fees and Expenses. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses incurred by the Bank in connection with the preparation of this Rider and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, reasonable counsel fees, maintenance fees, encumbrances or costs otherwise incurred in protecting, maintaining, preserving the Copyrights, or in defending or prosecuting any actions or proceedings arising out of or related to the Copyrights, in each case in accordance with the terms of this Rider, shall be borne and paid by the Grantor on demand by the Bank and until so paid shall be added to the principal amount of the Obligations to the Bank and shall bear interest at the contract rate therefor.

12. Additional Remedies. Upon the occurrence and during the continuance of an Event of Default under the Loan Documents, the Bank may, without any obligation to do so, complete any obligation of the Grantor hereunder, in the Grantor's name or in the Bank's name, but at the Grantor's expense, and the Grantor hereby agrees to reimburse the Bank in full for all reasonable expenses, including reasonable attorney's fees, incurred by the Bank in protecting, defending and maintaining the Copyrights prior to the Bank taking possession of the Copyrights under the Copyright Assignment.

13. Governing Law.

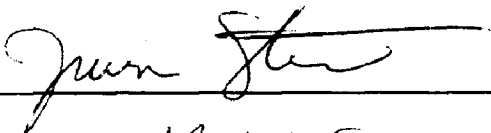
THIS RIDER WILL BE INTERPRETED AND THE RIGHTS AND LIABILITIES OF THE PARTIES HERETO DETERMINED IN ACCORDANCE WITH THE LAWS OF THE COMMONWEALTH OF PENNSYLVANIA, EXCLUDING ITS CONFLICT OF LAW RULES, EXCEPT THAT THE FEDERAL LAWS OF THE UNITED STATES OF AMERICA SHALL GOVERN TO THE EXTENT APPLICABLE.

14. Counterparts. This Rider may be signed in any number of counterpart copies and by the parties hereto on separate counterparts, but all such copies shall constitute one and the same instrument.

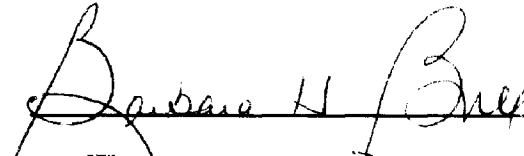
[Signature Pages to Follow]

WITNESS the due execution hereof, as of the date first written above, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby.

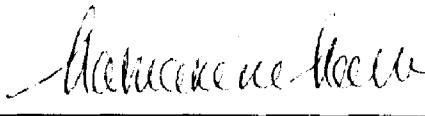
ATTEST:


Print Name: IRWIN STUDEN

MARKETSWITCH CORPORATION

By:  (SEAL)
Print Name: Barbara H Bull
Title: VP, Financial Control: Admin

PNC BANK, NATIONAL ASSOCIATION

By:  (SEAL)
Name: Katherine Kappeler
Title: VICE PRESIDENT

STATE OF VIRGINIA

)

)

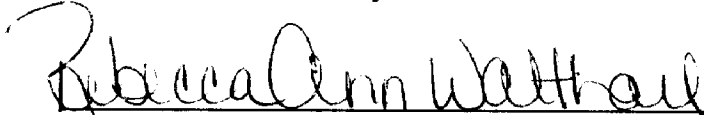
ss:

COUNTY OF LOUDOUN

)

On November 30, 1999, before me, a Notary Public, personally appeared _____, who acknowledged himself/herself to be the an authorized officer of **MARKETSWITCH CORPORATION**, a Delaware corporation, and that as such he/she, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public

My commission expires: 8/31/2003

(Notarial Seal)

STATE OF VIRGINIA

)

)


ss:

)

COUNTY OF LOUDOUN

On November 30, 1999, before me, a Notary Public, personally appeared _____ who acknowledged herself to be an authorized officer of PNC Bank, National Association, and that she, as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing on behalf of said bank as such officer.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.


Notary Public

My commission expires: 8/31/2003

(Notarial Seal)

EXHIBIT A

THIS DOCUMENT SHALL BE HELD BY THE BANK IN ESCROW PURSUANT TO AND IN ACCORDANCE WITH THE PROVISIONS OF THAT CERTAIN SECURITY AGREEMENT DATED AS OF NOVEMBER 30, 1999, BY AND BETWEEN THE GRANTOR AND THE BANK (THE "SECURITY AGREEMENT") AND THAT CERTAIN RIDER TO SECURITY AGREEMENT - COPYRIGHTS. BY SIGNING IN THE SPACE PROVIDED BELOW, THE UNDERSIGNED OFFICER OF THE BANK CERTIFIES THAT AN EVENT OF DEFAULT (AS DEFINED IN THE SECURITY AGREEMENT) HAS OCCURRED AND THAT THE BANK AS GRANTEE HEREUNDER HAS ELECTED TO TAKE POSSESSION OF THE COPYRIGHTS (AS DEFINED BELOW) AND TO RECORD THIS DOCUMENT WITH THE UNITED STATES LIBRARY OF CONGRESS, COPYRIGHT OFFICE. UPON RECORDING OF THIS DOCUMENT WITH THE UNITED STATES LIBRARY OF CONGRESS, COPYRIGHT OFFICE, THIS LEGEND SHALL CEASE TO HAVE ANY FORCE OR EFFECT.

PNC BANK, NATIONAL ASSOCIATION

BY: _____
PRINT NAME: _____
TITLE: _____
DATE: _____

Copyright Assignment

WHEREAS, MARKETSWITCH CORPORATION (the "Grantor") is the owner of the entire right, title and interest in and to the United States copyrights listed on Schedule A attached hereto and made part hereof (collectively as the "Copyrights") which are registered in the United States Library of Congress, Copyright Office or which are the subject of pending applications in the United States Library of Congress, Copyright Office;

WHEREAS, PNC BANK, NATIONAL ASSOCIATION, having a place of business at 600 Grant Street, 29th Floor, Pittsburgh, Pennsylvania 15219, identified as the "Bank" under that certain Rider to Security Agreement - Copyrights of even date herewith (the "Grantee") is desirous of acquiring said Copyrights;

WHEREAS, the Grantee has a security interest in the assets of the Grantor, adequate to carry on the business of the Grantor; and

WHEREAS, the Rider provides that this Assignment shall become effective upon the occurrence of an "Event of Default" as defined in the Security Agreement dated as of November 30, 1999, by and between the Grantor and the Grantee.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, the Grantor, for itself and its successors and assigns, subject to the limitations stated in the paragraph immediately following, does hereby transfer, assign and set over unto Grantee, its successors, transferees and assigns, all of its present and future right, title and interest in and to the Copyrights and all proceeds thereof and all goodwill associated therewith.

This Patent Assignment shall be effective only upon the certification by an authorized officer of the Grantee, as provided above, that (a) an Event of Default has occurred, and (b) the Grantee has elected to take possession of the Copyrights.

IN WITNESS WHEREOF, the undersigned has caused this Copyright Assignment to be executed by its duly authorized officer on November 30, 1999.

ATTEST:

MARKETSWITCH CORPORATION

By: _____
(SEAL)

Print Name: _____

Print Name: _____

Title: _____

STATE OF VIRGINIA

)

)

ss:

COUNTY OF LOUDOUN

)

On November 30, 1999, before me, a Notary Public, personally appeared _____, who acknowledged himself/herself to be an authorized officer of **MARKETSWITCH CORPORATION**, a Delaware corporation, and that as such he/she, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My commission expires: _____

(Notarial Seal)

SCHEDULE A TO COPYRIGHT ASSIGNMENT

Name of Copyright

Registered (Y/N)

Registration or Film No.

Schedule A To Trademark Assignment

| <u>Trademark</u> | <u>Registered (Y/N)</u> | <u>Country</u> | <u>Application or Regis. No.</u> | <u>Registration or Filing Date</u> |
|----------------------|-----------------------------|----------------|--------------------------------------|--|
| MARKETSWITCH | Y | U.S. | RN 2,262,607 | 07/20/99 |
| MARKETSWITCH | Pending | U.S. | SN 75/442,149 | 02/27/98 |
| MARKETSWITCH | Y | U.S. | RN 2,277,928 | 09/14/99 |
| WORKSTATION | | | | |
| MARKETSWITCH | Pending | U.S. | SN 75/515,732 | 06/26/98 |
| WORKSTATION | | | | |
| PAYBACK MARKETING | Pending | U.S. | SN 75/586,957 | 11/12/98 |
| PAYBACK MARKETING | Pending | U.S. | SN 75/586,958 | 11/12/98 |
| RELATIONSHIP NETWORK | Pending | U.S. | SN 75/174,896 | 10/01/96 |
| RELATIONSHIP NETWORK | Pending | South Africa | 97-2974 | |

¹ Abandoned.