

FORM PTO-1594 (Rev. 6-93) MRD 11-3-99 OMB No. 0631-0011 (exp. 1/94)



U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party (ies): Korea Data Systems America, Inc. Individual(s) Association General Partnership Limited Partnership Corporation-State California corporation Other Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies): Name: eMachines, Inc. Internal Address: Street Address: 14350 Myford Road, Suite 100 City: Irvine State: CA ZIP: 92606 Individual(s) citizenship: Association General Partnership Limited Partnership Corporation-State Delaware corporation Other If assignment is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) and addresses attached? Yes No

3. Nature of conveyance: X Assignment Merger Security Agreement Change of Name Other Execution Date: June 14, 1999

4. Application number(s) or patent number(s): A. Trademark Application No.(s) Additional numbers attached? Yes No

B. Trademark Registration No.(s) 1,758,158 Additional numbers attached? Yes No

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Wilson Sosnini Goodrich & Rosati Internal Address: Andrew P. Bridges Street Address: 650 Page Mill Road City: Palo Alto State: CA ZIP: 94304-1050

6. Total number of application and registrations involved: 1 7. Total fee (37 CFR 3.41) \$ 40.00 Enclosed Authorized to be charged to deposit account If fee is insufficient, please charge 8. Deposit account number: 23-2415 (Attn: 21672-900) (Attach duplicate copy of this page if paying by deposit account.)

DO NOT USE THIS SPACE

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9. 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.

TY TRAN, PARALGAL Name of Person/Signing

Signature

11/3/99 Date

Total number of pages including cover sheet, attachments, and document: 11

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

emachines, Inc.

TRADEMARK ASSIGNMENT AGREEMENT

This TRADEMARK ASSIGNMENT AGREEMENT (the "Agreement"), dated as of June 10, 1999, by and between Korea Data Systems America, Inc., a California corporation having its principal offices at ~~12300 Edison Way, Garden Grove, California 92841, U.S.A.~~ (hereinafter referred to as "Assignor"), and emachines, Inc., a Delaware corporation having its principal offices at 14350 Myford Road, Suite 100, Irvine, CA 92606, U.S.A. (hereinafter referred to as "Assignee").

A. Assignor owns the trademark "E-MACHINES" with respect to fully and partially completed or assembled computer equipment (including CPUs and monitors) and computer related products and parts (including spare parts) of any thereof, the marketing, advertising, selling, distribution, maintenance and servicing thereof, and all business and activities incidental thereto, together with United States Trademark Registration No. 1,758,158 (collectively, the "Trademark") and has the right to assign all right, title and interest in and to the Trademark;

B. Assignee desires to obtain all of Assignor's right, title and interest in and to the Trademark; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each party hereto, it is understood and agreed between the parties herein as follows:

1. Promise to Assign. Assignor hereby agrees to assign to Assignee all right, title and interest worldwide in the Trademark by executing the form of assignment attached to this Agreement as Exhibit A (the "Assignment").

2. License Back for Korea. In partial consideration of the assignment of the Trademark, Assignee and Assignor agree to grant, after the Assignment, a perpetual exclusive royalty-free license in favor of Assignor, without warranties, to use the mark in the Republic of Korea, subject to advice of Korean counsel with respect to the timing and the form of a license, taking into account availability of the Trademark in the Republic of Korea and the need for a trademark application to be perfected for the license to be effective.

3. Payment. As consideration for the Assignment, Assignee shall pay to Assignor eight million dollars (U.S.) (U.S.\$8,000,000) upon the earlier of either: (i) within thirty (30) days of the successful closing of an initial public offering of the common stock of Assignor; or (ii) within a two year period commencing upon the execution of this Agreement.

4. Reconveyance. If Assignee fails to make payment when due, and fails to cure its payment breach within thirty (30) days after notice to Assignee by Assignor, then Assignee shall immediately reconvey to Assignor all its right, title and interest worldwide in the Trademark and registrations and applications for registration anywhere in the world. Upon a reconveyance from Assignee to Assignor pursuant to this section, Assignor and Assignee shall enter into a license

agreement by executing the form of agreement attached to this Agreement as Exhibit B, updated as necessary to reflect current party details and trademark registration information as of the time of the license.

A reconveyance from Assignee to Assignor pursuant to this section shall constitute the sole remedy available to Assignor under this Agreement for failure of Assignee to make the payment provided for in this Agreement.

5. Representations and Warranties of Assignor

(a) Assignor represents and warrants that it owns valid and subsisting rights in the Trademark and its U.S. registration that are capable of being assigned to Assignee.

(b) Assignor knows of no adverse claims of ownership to the Trademark or of any existing state of facts that would support a claim that use by Assignee of the Trademark anywhere in the world infringes or otherwise violates any trademark right of any other person.

(c) Assignor is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has the requisite corporate power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

(d) The execution and delivery by Assignor of this Agreement, the performance and observance by Assignor of its obligations hereunder and the consummation by Assignor of the transactions contemplated hereby have been duly authorized by all necessary corporate action on the part of Assignor. This Agreement has been duly executed and delivered by a duly authorized officer of Assignor and constitutes the valid and legally binding obligation of Assignor, enforceable against Assignor in accordance with its terms.

(e) To Assignor's knowledge, no consents or agreements of any third party or governmental body are necessary for the execution, delivery, performance or observance by Assignor of its obligations under this Agreement.

6. Assignment. Assignee agrees not to assign, or otherwise encumber its rights to, the Trademark and any associated trademark registrations, before it has rendered to Assignor the full payment provided for in this Agreement. Any assignment or other encumbrance contrary to this provision shall be void.

7. Entire Agreement. This Agreement contains the entire agreement between the parties concerning the subject matter herein.

8. Waivers and Amendments. This Agreement shall not be modified except upon written agreement of the parties hereto. All amendments and other modifications hereof shall be in writing and signed by each of the parties hereto. The delay or failure by any party to insist, in any one instance or more, upon strict performance of any of the terms or conditions of this Agreement, or to exercise any right or privilege herein conferred shall not be construed as a waiver of any such terms, conditions, rights or privileges, but the same shall continue and remain in full force and effect. All rights and remedies are cumulative.

9. **Notices.** All notices, requests, demands and other communications hereunder shall be given in writing and shall be: (a) personally delivered; (b) sent by telecopier, facsimile transmission or other electronic means of transmitting written documents; or (c) sent to the parties at their respective addresses indicated herein by registered or certified U.S. mail, return receipt requested and postage prepaid, or by a major private overnight mail courier service. The respective addresses to be used for all such notices, demands or requests are as follows:

If to Assignor: 12300 Edison Way
Garden Grove
California 92841
U.S.A.

Attention: John Hui
Telephone: 714-379-5599
Facsimile: 714-379-5595

with copies to: White & Case,
9th Floor
Gloucester Tower
The Landmark
11 Pedder Street
Hong Kong

Attention: Eric S. Yoon
Telephone: 852-2822-8700
Facsimile: 852-2845-9070

If to Licensee: emachines, Inc.
14350 Myford Road, Suite 100
Irvine, CA 92606
U.S.A.

Attention: Stephen A. Dukker
Telephone: 714-481-2828
Facsimile: 714-505-5048

If personally delivered, such communication shall be deemed delivered upon actual receipt; if electronically transmitted pursuant to this paragraph, such communication shall be deemed delivered on the day transmitted unless it is received after 5:00 p.m., California time, or on a day which is not a business day, in which case it shall be deemed delivered on the next business day after transmission (and sender shall bear the burden of proof of deliver); if sent by overnight courier pursuant to this paragraph, such communication shall be deemed delivered upon receipt; and if sent by U.S. mail pursuant to this paragraph, such communication shall be deemed delivered as of the date of delivery indicated on the receipt issued by the relevant postal service, or, if the addressee fails or refuses to accept delivery, as of the date of such failure or refusal. Any party may change its address for the purposes of this Agreement by giving notice thereof in accordance with this Section.

10. **Governing Law.** This Agreement shall be governed, construed and interpreted according to the internal laws of the State of California, excluding any choice of law rules. Each of Assignor and Assignee hereby expressly and irrevocably agrees and consents that any action, suit or proceeding arising out of or relating to this Agreement and the transactions contemplated hereby that cannot be settled amicably through good faith discussions between Assignor and Assignee may be instituted and maintained in any state or federal court sitting in the Counties of Orange, Los Angeles, Santa Clara, or San Francisco of the State of California and, by execution of this Agreement, each of Assignor and Assignee expressly waives any objection that it may have now or hereafter to the venue or jurisdiction of any such action, suit or proceeding and irrevocably submits to the jurisdiction of any such court in any such action, suit or proceeding and further waives a right to a jury trial of any claim or cause of action based upon or arising out of this Agreement.

11. **Severability.** The unenforceability or invalidity of any article, section, subsection or provision of this Agreement shall not affect the enforceability or validity of the balance of this Agreement.

12. **Counterparts.** This Agreement may be executed in one or more counterparts, none of which need contain the signature of more than one party hereto and each of which shall be deemed to be an original, and all of which together shall constitute a single agreement.

공증인가 동남합동법률사무소

동부 1999 년 제 1492 호

Registered NO. 1999- 1492

인 증

Notarial Certificate

위 문 서 에 기재된
 촉탁인 KOREA DATA SYSTEMS
 AMERICA, INC.
 대표이사 박 광 태 는
 본국의 면전에서 위 사서증서에
 자기가 서명날인한 것임을 자인
 하였다.

PARK, Kwang-Rae President of
 KOREA DATA SYSTEMS AMERICA, INC.
 appeared before me and
 admitted his (her) subscription to the
 attached a DOCUMENT.

1999 년 6 월 14 일 이
 사무소에서 위 인공한다.


This is hereby attested
 on this 14th day of June
 1999 at this office.

서울특별시 강남구 대치동 945번지의 1
 공증인가 동남합동법률사무소



THE DONGNAM LAW FIRM
 Notaries & Attorneys-at-Law
 945-1, Daechi-Dong, Kangnam-Ku,
 Seoul, Korea

공증담당 변호사

Handwritten signature of Kim Deok-Ju 

Attorney-at-Law

Handwritten signature of Kim Deok-Ju

KIM DEOK-JU

This office has been authorized
 by the Minister of Justices,
 the Republic of Korea, to act
 as Notary Public since
 29th of December, 1993 under
 Law NO.4544.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by an authorized representative as of the day and year first written above.

KOREA DATA SYSTEMS AMERICA, INC.

By: _____

Name: _____

Title: _____

EMACHINES, INC.

By: Steven H. Miller

Name: _____

Title: CFO

[Trademark Assignment]