

07-27-2001

U.S. DEPARTMENT OF COMMERCE

7-23-01



SHEET

101790237

Patent and Trademark Office
Docket No. 024770-2000

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

1. Name of Conveying party(ies): Digital Anvil Holdings, Inc. <input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Texas Corporation <input type="checkbox"/> Other	2. Name and address of receiving party(ies): Name: Game Holdings, LLC Street Address: 4215 Lakeway Blvd. Austin, Texas 78734 <input type="checkbox"/> Individual(s) citizenship: _____ <input type="checkbox"/> Association: _____ <input type="checkbox"/> General Partnership: _____ <input checked="" type="checkbox"/> Limited Liability Company: <u>Texas</u> <input type="checkbox"/> Corporation-State: _____ <input type="checkbox"/> Other: _____
Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
3. Nature of conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other: Execution Date: February 13, 2001	

4. Application number(s) or registration number(s): A. Trademark Application No.(s) 75/575,150, 75/447,647 and 75/470,756 Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

5. Name and address of party to whom correspondence concerning document should be mailed: Rochelle D. Alpert Brobeck, Phleger & Harrison LLP Spear Street Tower One Market San Francisco, CA 94105	6. Total number of applications and trademark registrations involved: 3
	7. Total fee (37 C.F.R. § 3.41): \$90 <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account, referencing Attorney Docket: [DOCKET NUMBER]
	8. Deposit account number: <u>02-3950</u>

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.21 which may be required by this paper, or to credit any overpayment to Deposit Account No. 02-3950.**DO NOT USE THIS SPACE**

9. Statement and Signature. To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Name: Rochelle D. Alpert <u><i>Rochelle D. Alpert</i></u> <u><i>July 18, 2001</i></u> Signature Date

Total number of pages comprising cover sheet, attachment and document: 6

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

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INTELLECTUAL PROPERTY ASSIGNMENT

THIS INTELLECTUAL PROPERTY ASSIGNMENT (this "*Assignment*"), dated as of February 13, 2001 (the "*Effective Date*"), is made by and between Game Holdings, LLC, a Texas limited liability company (the "*Assignee*") and Digital Anvil Holdings, Inc., a Texas corporation ("*Assignor*"). For good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions

As used herein, the terms "Assignment," "Effective Date," "Assignee" and "Assignor" shall have the meanings specified above, and the following terms shall have the following meanings:

"*Assigned Intellectual Property*" means the Intellectual Property identified on Exhibit A attached hereto and made a part hereof.

"*Intellectual Property*" means all United States and foreign patents (including continuations, continuations-in-part, divisionals, reissues and re-examinations thereof) and patent applications (including continuations, continuations-in-part, reissues and re-examinations thereof); United States and foreign registered and unregistered trade names, trademarks, service names and service marks (and applications for registrations of the same); United States and foreign copyrights and copyright registrations (and applications for the same); trade secrets; United States and foreign industrial designs and integrated circuit topographies (and applications for the same); computer data (including formulations and analyses), computer software (whether in source code, object code or other form) and all related programming, source, user and systems documentation; inventions, processes and designs (whether or not patentable or reduced to practice); know-how, show how and formulae; and all other intellectual property rights of any sort (whether based on statute or common law) and all business, contract rights, causes of action and goodwill in, incorporated or embodied in, used to develop or related to any of the foregoing.

"*Moral Rights*" means rights of paternity, integrity, disclosure and withdrawal and any other rights that may be known as or referred to as "moral rights," "artist's rights," "droit moral" or the like.

2. Assignment

(a) As of the Effective Date, Assignor hereby assigns, transfers and conveys to Assignee exclusively throughout the world all right, title and interest (choate or inchoate) in and to the Assigned Intellectual Property, including all Intellectual Property rights therein and thereto of any kind throughout the world, whether now existing or owned or hereafter acquired, developed or arising.

(b) Assignee shall not assume or guarantee any liabilities, obligations, litigation, disputes, debts, payables, counterclaims, rights of set-off or return, or commitments or claims, whether such liabilities are contingent or otherwise, or direct or indirect, of Assignor in

existence on or prior to or after the Effective Date or otherwise or based on any events, facts or circumstances in existence prior to or in connection with or after the assignment of the Assigned Intellectual Property or in connection with or arising from any activities of Assignor.

3. Consideration

Subject to the terms and conditions of this Assignment, in consideration for the rights granted to the Assignee hereunder, the Assignee agrees to grant Assignor one hundred percent (100%) of the membership interest in Assignee. The assignment hereunder is intended to qualify for tax-free treatment under Section 721 of the Internal Revenue Code of 1986, as amended.

4. Further Assurances; Moral Rights; Competition; Marketing

(a) Assignor covenants and agrees to assist the Assignee in every legal way to evidence, record and perfect the assignment set forth in Section 2(a) and to apply for and obtain recordation of and from time to time enforce, maintain and defend the assigned rights in and to the Assigned Intellectual Property. Without limiting the generality of the foregoing, Assignor covenants and agrees that, when requested by the Assignee to carry out the intent and purpose of this assignment, Assignor shall (i) execute all divisional, continuing, substitute, renewal, reissue and all other patent applications; (ii) execute all rightful oaths, declarations, assignments, powers of attorney and other papers; (iii) communicate to the Assignee all facts known to Assignor relating to the Assigned Intellectual Property and the history thereof; and (iv) generally do everything possible which the Assignee shall consider desirable for securing, maintaining and enforcing proper patent protection for the Assigned Intellectual Property. If the Assignee is unable for any reason whatsoever to secure Assignor's signature to any document that the Assignee is entitled to under this Section 4(a), Assignor hereby irrevocably designates and appoints the Assignee and its duly authorized officers and agents as Assignor's agents and attorneys-in-fact with full power of substitution to act for and on Assignor's behalf and instead of Assignor, to execute and file any such document or documents and to do all other lawfully permitted acts to further the purposes of the foregoing with the same legal force and effect as if executed by Assignor.

(b) To the extent allowed by law, the assignment in Section 2(a) includes all Moral Rights. To the extent Assignor retains any such Moral Rights under applicable law, Assignor hereby ratifies and consents to, and provides all necessary ratifications and consents to, any action that may be taken with respect to such Moral Rights by or authorized by the Assignee, and Assignor agrees not to assert any Moral Rights with respect thereto. Assignor will confirm any such ratifications and consents from time to time as requested by the Assignee. Without limiting the generality of the foregoing, Assignor grants to the Assignee the right not to include the current or future names or trademarks of Assignor whether on the Assigned Intellectual Property or elsewhere.

5. Confidential Information

Assignor shall not use or disclose the Assigned Intellectual Property or any other technical or business information or plans of the Assignee except to the extent Assignor can document that it is generally available (through no fault of Assignor) for use and disclosure by the public without any charge, license or restriction. Assignor recognizes and agrees that there is no adequate remedy at law for a breach of this Section 5, that any such breach would irreparably harm the Assignee and that, in addition to any other remedies available at law, the Assignee is entitled to equitable relief (including, without limitation, an injunction) with respect to any such breach or potential breach without the posting of a bond or any other security or the proof of actual damages.

6. Warranty

Assignor represents and warrants to the Assignee that Assignor: (a) was, immediately prior to the execution of this Assignment, the sole owner of all rights, title and interest in and to the Assigned Intellectual Property; (b) has not assigned, transferred, licensed, pledged or otherwise encumbered any of the Assigned Intellectual Property or agreed to do so; (c) has full power and authority to enter into this Assignment and to assign the Assigned Intellectual Property to the Assignee; (d) is not aware of any actual or potential violation, infringement or misappropriation of any third party's rights (or any claim thereof) by the Assigned Intellectual Property or the use by the Assignee of the Assigned Intellectual Property; (e) was not acting within the scope of employment by any third party, or using the equipment, premises or Intellectual Property of any third-party employer, when conceiving, creating or otherwise performing any activity with respect to any of the Assigned Intellectual Property; and (f) is not aware of any questions or challenges with respect to the patentability or validity of any claims of any patent applications relating to the Assigned Intellectual Property.

7. Miscellaneous

This Assignment is not assignable or transferable by Assignor without the prior written consent of the Assignee, and any attempt to do so shall be void. This Assignment and the rights transferred hereunder shall be freely assignable, in whole or in part, by the Assignee. This Assignment will bind and inure to the benefit of the parties and their respective successors and permitted assigns. Any notice, report, approval or consent required or permitted hereunder shall be in writing and will be deemed to have been duly given if delivered personally or mailed by first-class, registered or certified U.S. mail, postage prepaid to the respective addresses of the parties as set forth on the signature page of this Assignment (or such other address as a party may designate by ten days' written notice). No failure to exercise, and no delay in exercising, on the part of either party, any privilege, power or rights hereunder will operate as a waiver thereof, nor will any single or partial exercise of a right or power hereunder preclude further exercise of any other right hereunder. All remedies provided for in this Assignment shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise. If any provision of this Assignment shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Assignment shall otherwise remain in full force and effect

and enforceable. This Assignment shall be deemed to have been made in, and shall be construed pursuant to the laws of the State of Texas and the United States without regard to conflicts of laws provisions thereof. The prevailing party in any action to enforce this Assignment shall be entitled to recover costs and expenses including, without limitation, reasonable attorneys' fees. The terms of this Assignment are confidential to the Assignee and no press release or other written or oral disclosure of any nature regarding the compensation terms of this Assignment shall be made by Assignor without the Assignee's prior written approval; provided, however, that approval for such disclosure shall be deemed given to the extent such disclosure is required to comply with governmental rules. Any waivers or amendments under this Assignment shall be effective only if made in writing and signed by a representative of the respective parties authorized to bind the parties. Both parties agree that this Assignment is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Assignment.

IN WITNESS WHEREOF, the undersigned authorized representatives of the parties have executed this Assignment or have caused this Assignment to be executed on their behalf, as of the Effective Date.

DIGITAL ANVIL HOLDINGS, INC.:

By: Craig J. Cox
 Name: Craig J. Cox
 Title: Chief Operating & Financial Officer
 Date: 2-13-01

Address for notices:

Digital Anvil Holdings, Inc.
4215 LAKEWAY BLVD
AUSTIN, TEXAS 78734
 Attn: CRAIG COX

GAME HOLDINGS, LLC:

By: Craig J. Cox
 Name: CRAIG J. COX
 Title: MANAGER
 Date: 2-13-01

Address for notices:

Game Holdings, LLC
4215 LAKEWAY BLVD.
AUSTIN, TEXAS 78734
 Attn: CRAIG COX

EXHIBIT A**ASSIGNED INTELLECTUAL PROPERTY**

Loose Cannon, Silverheart, and Conquest (each as defined below), including but not limited to all rights in connection with all remakes, Expansion Packs (defined below), sequels, and derivative works based in whole or in part thereon.

For purposes hereof, "**Conquest**" means the computer game software in source and object code forms that is currently being developed by DA and that is titled "Conquest," and all associated materials that are specific to Conquest, including without limitation artwork, character names, environmental settings, plot elements, music and scripts.

For purposes hereof, "**Loose Cannon**" means the computer game software in source and object code forms that is currently being developed by Sub and that is titled "Loose Cannon," and all associated materials that are specific to Loose Cannon, including without limitation artwork, character names, environmental settings, plot elements, music and scripts.

For purposes hereof, "**Silverheart**" means the computer game software in source and object code forms that is currently being developed by DA and that is titled "Silverheart," and all associated materials that are specific to Silverheart, including without limitation artwork, character names, environmental settings, plot elements, music and scripts.

For purposes hereof, "**Expansion Pack**" means any software pack that expands on the first commercially released version of Conquest or Loose Cannon (e.g., scenario disks, add-on levels and level editors, and new features such as weapons, strategies and settings).