

08-03-2001



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Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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

1. Name of conveying party(ies): Wild File, Inc. 7-23-01
Individual(s) Association General Partnership Limited Partnership Corporation-State (Delaware) Other
Additional name(s) of conveying party(ies) attached? Yes No

2. Name and address of receiving party(ies) Name: Roxio, Inc. Internal Address: Street Address: 461 South Milpitas Blvd City: Milpitas State: CA Zip: 95035
Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State Delaware Other
If assignee 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) & address(es) attached? Yes No

3. Nature of conveyance: Assignment Merger Security Agreement Change of Name Other
Execution Date: July 2, 2001

4. Application number(s) or registration number(s): A. Trademark Application No.(s) B. Trademark Registration No.(s) 2203889 2271088 2257925
Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Allyn Taylor, Esq. Internal Address: Street Address: 3340 Hillview Ave. City: Palo Alto State: CA Zip: 94304

6. Total number of applications and registrations involved: 3
7. Total fee (37 CFR 3.41): \$90.00 Enclosed Authorized to be charged to deposit account
8. Deposit account number: 07-1907 (Attach duplicate copy of this page if paying by deposit account)

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. Allyn Taylor Signature Date 7/23/01

Total number of pages including cover sheet, attachments, and document: 13

08/03/2001 TDIAZ1 00000022 2203889

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

01 FC:481 40.00 OP 02 FC:482 50.00 OP

TRADEMARK ASSIGNMENT AND LICENSE BACK AGREEMENT

This Trademark Assignment and License Back Agreement ("Agreement") is entered into on this 5th day of May, 2001 (the "Effective Date"), by and between Roxio, Inc., a Delaware corporation with offices located at 461 South Milpitas Road Milpitas, California ("Roxio") and Wild File, Inc. ("Wild File") a Delaware corporation and a wholly owned subsidiary of Roxio.

WHEREAS, Wild File is the owner of certain U.S. and foreign trademarks identified in Exhibit A, attached hereto (the "Trademarks") and made a part of the Agreement;

WHEREAS, Wild File is a wholly-owned subsidiary of Roxio;

WHEREAS, Wild File agrees to assign all right, title and interest in the Trademarks to Roxio;

WHEREAS, Wild File desires to obtain a license to use the Trademarks in connection with the type of products and services with which it presently uses the Trademarks; and

WHEREAS, Roxio agrees to grant, and Wild File desires to accept, a license to use the Trademarks as set forth below.

NOW, THEREFORE, in exchange for good and valuable consideration, the sufficiency and receipt of which is hereby acknowledged, the parties agree as follows:

I. ASSIGNMENT

A. Assignment. Wild File hereby assigns to Roxio all right, title and interest in and to the Trademarks throughout the world together with the common law rights and goodwill of the business symbolized by the Trademarks and together with the right to recover for damages and profits from past infringements thereof, if any. Wild File further agrees to execute the agreement attached hereto as Exhibit B ("Recording Agreement") and made a part of this Agreement for submission to the U.S. Patent and Trademark Offices so as to record this assignment of the Trademarks. The parties acknowledge that the terms of this Agreement and the terms of the Recording Agreement are consistent.

B. Power of Attorney. Wild File hereby constitutes and appoints Roxio as Wild File's true and lawful attorney in fact, with full power of substitution in Wild File's name and stead, to take any and all steps, including proceedings at law, in equity or otherwise, to execute, acknowledge and deliver any and all instruments and assurances necessary or expedient in order to vest or perfect the aforesaid rights and causes of action more effectively in Roxio or to protect the same or to enforce any claim or right of any kind with respect thereto. This includes, but is not limited to, any rights with respect to the Trademarks that may have accrued in Wild File's favor from the respective date of first use or filing of any of the Trademarks to the Effective Date of this Assignment. Wild File hereby declares that the foregoing power is coupled with an interest and as such is irrevocable.

C. Warranty. Wild File makes no warranties with respect to the Trademarks, and assigns the Trademarks "As Is."

II. LICENSE BACK

A. Grant. Subject to the terms of this Agreement, Roxio grants to Wild File a non-exclusive, royalty-free, perpetual, worldwide, non-transferable license to use the Trademarks on products and in connection with services that are the same or substantially similar to those with which Wild File presently uses the Trademarks and/or has used the Trademarks in the past, and to use WILD FILE as its corporate name and trade name (the "License"). This License does not include the right to sublicense the use of the Trademarks.

B. Formalities. In order to comply with the requirements under certain foreign trademark laws, Roxio may need to know if the products are being sold in a particular country or countries and other information regarding such use. Wild File shall supply such information upon Roxio's request. Wild File shall assist Roxio in complying with the formalities of local law, including but not limited to, the execution of any application for registration as a registered user, the execution of additional license agreements suitable for recording with appropriate authorities, or providing proof of use of the Trademarks or any other applicable documents. Wild File shall pay the expense of complying with such formalities.

C. Quality Standards. Roxio acknowledges that the current level of quality of Wild File's goods and services meets its minimum standards and Wild File agrees to maintain such quality level to at least this minimum amount for the duration of the Agreement. Roxio may, from time-to-time, request in writing specimens of Wild File's goods and services that bear the Trademarks (the "Goods and Services") and Wild File's materials relating to its services that bear the Trademarks to assess the level of consistency and quality of use of the Trademarks on and in connection with the Goods and Services and to ensure that Wild File maintains the consistency and quality of said Goods and Services throughout the term of the Agreement. Wild File shall provide such specimens at no cost to Roxio. If at any time, Roxio reasonably determines that the Goods and Services bearing the Trademarks fail to materially conform to Roxio's minimum standards Roxio shall so notify Wild File in writing and Wild File shall correct the non-conformance and provide a corrected specimen of the Goods and/or Services to Roxio for review within thirty (30) days from the written notice from Roxio regarding such non-conformance.

D. Suspected Infringement. Wild File agrees to notify Roxio, in writing, of any suspected infringement of the Trademarks in any jurisdiction of which Wild File becomes aware. Wild File agrees to notify Roxio of any claims made against it, adverse to or conflicting with Roxio's exclusive ownership of the Trademarks.

E. Termination for Material Breach. Roxio may terminate this license upon ninety (90) days prior written notice to Wild File, without need of judicial notice or court action, for a material breach of this Agreement, unless the breach is corrected to Roxio's reasonable satisfaction within the ninety (90) day period.

1. Material Breach Defined. Material breaches shall include, but not be limited to:

1.1 Wild File's use of the Trademarks on products or marketing materials inconsistent with the License granted under this Agreement, or otherwise contrary to the provisions of such license;

1.2 Wild File's challenge to Roxio's ownership of the Trademarks or the validity of the Trademarks.

2. Effect of Termination. Upon termination of this Agreement, Wild File shall immediately cease use of the Trademarks, either alone or in combination with another term, and shall cease distribution or offering of any goods and services using the Trademarks. The obligations set forth in Paragraph II F (Trademark Ownership) shall survive the termination of this Agreement.

F. Trademark Ownership.

1. License Acknowledgement. Wild File acknowledges that as of the Effective Date of this Agreement, Roxio is the sole and exclusive owner of the Trademarks. Except as required by law, Wild File agrees that it will do nothing inconsistent with such ownership either during the term of the Agreement or afterwards. Specifically, Wild File shall supply best efforts to use the Trademarks in a manner that does not deviate from Roxio's rights in the Trademarks and will take no action that will interfere with or diminish Roxio's right in the Trademarks. Wild File agrees that its use of the Trademarks shall inure to the benefit of and be on behalf of Roxio. Wild File acknowledges that the Trademarks are valid under the applicable law and that Wild File's utilization of the Trademarks will not create any right, title or interest in said Trademarks. Wild File shall use the Trademarks so that such trademark rights are a separate and distinct impression from any other trademark that may be used or affixed to the Goods, their associated documentation or marketing material. Except as permitted in this Agreement, Wild File agrees that it will not adopt or use as part or all of any corporate name, trade name, trademark, service mark or certification mark, the Trademarks, either alone or in combination with other words, or any other mark based on the Trademarks or any designation confusingly similar to the Trademarks.
2. Non-Assistance. Wild File agrees not to apply or assist any third party to register the Trademarks or a confusingly similar designation anywhere in the world. If any application for registration is or has been filed by or on behalf of Wild File in any country and relates to any Trademarks which, in the reasonable opinion of Roxio, is confusingly similar, deceptive or misleading with respect to, or dilutes or any way damages the Trademarks, Wild File shall, at Roxio's request, abandon all use of such Trademarks, and any registration or application for registration thereof and shall reimburse Roxio for all costs and expenses of any opposition or related legal proceeding, including attorneys' fees, instigated by Roxio or its authorized representative.

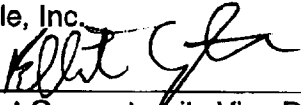
G. Miscellaneous.

1. Waiver. No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver.
2. Successors or Assigns. This Agreement shall be binding on, and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns. Wild File may not assign this Agreement without the prior written consent of Roxio in any case except as part of a corporate reorganization, consolidation, or merger, which consent shall not be unreasonably withheld.
3. Notices. All notices, requests, demands and other communications relating to this Agreement shall be in writing and shall be deemed to have been duly given on the date of service if served personally or by facsimile on the party to whom notice is to be given, or five (5) days after mailing if mailed to a party to whom notice is to be given, by first class mail, postage prepaid, and addressed as set forth above.
4. Severability. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision without the limits of applicable law or applicable court decisions.
5. Governing Law. This Agreement shall be construed in accordance with, and governed by, the laws of the State of California applicable to contracts entered into by California residents and to be performed within such State.
6. Entire Agreement. This Agreement constitutes the entire agreement between the parties as to the subject matter hereof, and supersedes all prior and contemporaneous agreements, representations and understandings between them. This Agreement shall not be changed, modified, or amended except by a writing signed by both parties.
7. CONSEQUENTIAL DAMAGES WAIVER. ROXIO SHALL NOT BE LIABLE TO WILD FILE FOR ANY INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OR DAMAGES FROM LOST PROFITS OR LOST USE EVEN IF ROXIO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
8. Effective Date. This agreement shall be deemed effective only as of the date on which it has been fully executed by both parties. It shall remain an offer which may at any time be revoked and shall not be deemed effective unless and until both parties have executed this Agreement in full. It may be executed in any number of identical counterparts, each of

which shall be deemed an original, but all of which when taken together, shall constitute one and the same instrument.


IN WITNESS HEREOF, the undersigned have affixed their signatures on the dates set forth below:

Wild File, Inc.



By: Elliot Carpenter, its Vice President

Roxio, Inc.



By: Thomas J. Shea, its Senior Vice President and Chief Operating Officer

Date: 7/2/01, 2001

Date: June 28, 2001

OK LEGAL
WEA

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EXHIBIT A
ASSIGNED TRADEMARKS

All trademarks owned by Wild File, Inc., including but not limited to the following:

GOBACK

WILD FILE

WILDFILE



07-23-2001

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #76

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July 23, 2001
VIA EXPRESS MAIL NO. _

EL904947488US

OUR FILE NO. 2101838-900200

COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
Attn.: Assignment Division

Re: Trademark Assignment

Dear Sir:

Enclosed for your recordation are the following documents regarding the assignment of the above trademark registration:

1. Assignment executed by Wild File, Inc.
2. Trademark Recordation Cover Sheet;
3. A check in the amount of \$90 made payable to the Commissioner of Patents & Trademarks to cover the assignment recordation fees.
4. Copies of the Revocation of Powers of Attorney and Appointment of New Attorney from Roxio, Inc. to Gray Cary Ware & Freidenrich LLP; and
5. A self-addressed stamped postcard.

In the event there is a deficiency in the fee, please debit my firm's Deposit Account, No. 07-1907, for the remaining fees due.

Please return the stamped postcard to the undersigned at our Palo Alto office.

SILICON VALLEY SAN DIEGO SAN DIEGO/GOLDEN TRIANGLE SAN FRANCISCO AUSTIN SEATTLE SACRAMENTO LA JOLLA

Gray Cary\PA\10169221.1
2101838-900200

TRADEMARK
REEL: 002339 FRAME: 0573

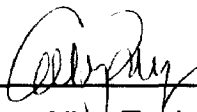
July 23, 2001

Page Two

I look forward to the return of the recorded assignment.

Very truly yours,

Gray Cary Ware & Freidenrich LLP

By: 
Allyn Taylor
ataylor@graycary.com

AT:jeb
Enclosures

cc: Jennifer Bales

CERTIFICATE OF EXPRESS MAILING

I do hereby certify that this document is being deposited with the United States Postal Service as Express Mail on July 23, 2001 in an envelope numbered

EL904947488 US

addressed to:

Assistant Commissioner for Trademarks
2900 Crystal Drive
Arlington, VA 22202-3513

