

08-27-2001

Form PTO-1594
(Rev. 03/01)
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U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

8.17.01 ▼

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

1. Name of conveying party(ies):

IDT Netherlands, BV *RE*

- Individual(s)
- General Partnership
- Corporation-State
- Other _____
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other Settlement & Co-Exist. Agreement
- Merger
- Change of Name

Execution Date: May 1, 2001

2. Name and address of receiving party(ies)

Name: Clariti Telecom, Inc.

Internal Address: PO Box 2549

Street Address: 800 Finch Street

City: Warminster State: PA Zip: 18974

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State Pennsylvania
- 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

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

75668656

B. Trademark Registration No.(s)

2225339

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Rosanna L. Suriano

Internal Address: 1800 One Liberty Place

Street Address: 1650 Market Street

City: Philadelphia State: PA Zip: 19103

6. Total number of applications and registrations involved:

2

7. Total fee (37 CFR 3.41).....\$ _____

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

501292

(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.

Rosanna L. Suriano, Esq.

Name of Person Signing

[Signature]
Signature

May 15, 2001

Date

7

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

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

TRADEMARK
REEL: 002355 FRAME: 0441

SETTLEMENT AND CO-EXISTENCE AGREEMENT

THIS AGREEMENT, executed as of the last date set forth below, is entered into by and between Clariti Telecom, Inc. (hereinafter "Clariti"), a Pennsylvania corporation having its principal place of business at North American Technology Center, 800 Finch Street, P.O. Box 2549, Warminster, Pennsylvania 18974-0154, and IDT Netherlands, B.V. (Puerto Rico Branch) (hereinafter "IDT"), a private limited liability company organized and existing under and by virtue of the laws of The Netherlands having its principal place of business at 108 Ganges Street, Rio Piedras, PR 00926, collectively referred to hereinafter as "the Parties."

WHEREAS, Clariti, and its predecessor-in-interest, has adopted and continuously used since January 1996 the mark "TWC DIRECT & design" for prepaid phone cards and telecommunications services; and

WHEREAS, Clariti has applied to register the mark "TWC DIRECT & design" for prepaid phone cards and telecommunications services, which Application was filed March 26, 1999 and assigned Serial No. 75/668656; and

WHEREAS, PT-1 Communications, Inc. (hereinafter "PT-1"), a New York corporation having its principal place of business at 30-50 Whitestone Expressway, Flushing, New York 11354, has adopted and continuously used since September 1996 the mark "TWC PHONE CARD" for telephone calling cards, not magnetically encoded; and

WHEREAS, Clariti has filed a Petition for Cancellation of U.S. Registration No. 2,225,339 (Cancellation No. 30,854) (the "Petition"); and

WHEREAS, PT-1 has filed an answer to the allegations set forth in Clariti's Petition and denied such allegations; and

WHEREAS, on or about February 1, 2001 PT-1 sold a portion of its business, including the entire interest and good will in U.S. Registration No. 2,225,339, to IDT; and

WHEREAS, PT-1 and IDT filed an Assignment of the entire interest and goodwill in U.S. Registration No. 2,225,339 for Recordation in the Assignment Branch of the United States Patent and Trademark Office on March 20, 2001; and

WHEREAS, Clariti and IDT desire to amicably resolve this dispute without the necessity for further litigation, on the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, agreements and other undertakings set forth herein, and intending to be legally bound hereby, Clariti and IDT hereby agree as follows:

1. Clariti agrees to limit its use of the mark "TWC DIRECT & design" to always use the curved band design appearing in Application Serial No. 75/668656 on and in connection with its goods, packaging for its goods, tags or labels applied to its goods, and with any advertising or promotional materials for its services, collectively, the "Clariti Products."
2. IDT agrees to limit its use of the mark "TWC PHONE CARD" so as to never use a design similar in any manner to the curved band design shown in Application Serial No. 75/668656, or any design similar in appearance to such design, on and in connection with its goods, packaging for its goods, and tags or labels applied to its goods and with any advertising or promotional materials for its services, collectively, the "IDT Products."
3. Clariti agrees to display the wording "Provided by Clariti Telecom, Inc." in close proximity to the mark "TWC DIRECT & design" on and in connection with the Clariti Products.
4. IDT agrees to display the wording "Provided by IDT" in close proximity to the mark "TWC PHONE CARD" on and in connection with the IDT Products.
5. The Parties agree to cooperate and take any steps deemed necessary to avoid confusion and eliminate any instances of confusion or mistake arising out of the use of the "TWC DIRECT & design" and "TWC PHONE CARD" marks by the Parties on or in connection with the Clariti Products and the IDT Products respectively.
6. The Parties agree that in the event of misdirected telephone calls, correspondence or other instances of apparent or actual confusion in the market place, that they will make all reasonable efforts to notify the other Party in writing. The Parties also agree to take corrective measures if the aforementioned occurs including, but not limited to, providing instructions in writing to all receptionists, telephone operators, mail room, and sales personnel to provide the correct name, address, and telephone number of the correct Party being sought. In the case of misdirected mail, telephone calls, or inquiries received by Clariti, Clariti agrees to provide the caller of the misdirected telephone calls or sender of the correspondence and inquiries the address of IDT Corporation, at 108 Ganges Street, Suite A1, Rio Piedras, PR 00926, telephone number (787) 620-0440. Similarly, if IDT receives any misdirected telephone calls, correspondence, or other inquiries, IDT will provide the caller or sender of such misdirected correspondence, telephone calls, or inquiry the address of Clariti Telecom, Inc., at North American Technology Center, P.O. Box 2549, Warminster, Pennsylvania 18974, telephone number (215) 773-8313.

7. Upon execution of this Agreement, Clariti agrees to voluntarily withdraw the previously filed Petition for Cancellation of U.S. Registration No. 2,225,339 (Cancellation No. 30,854) by filing an Agreed Withdrawal of Cancellation reasonably acceptable to both Parties.
8. The Parties agree to take no actions (including without limitation, actions with the USPTO, court or other adjudicative body) to interfere with the other Party's use or registration of their respective marks in accordance with the terms and conditions set forth herein.
9. The Parties agree that they waive any claim or potential claim, of which they are aware or unaware, of infringement or unfair competition or any related claim for the use of "TWC DIRECT & design" and "TWC PHONE CARD" marks both prior to and after the execution of this Agreement, in any jurisdiction.
10. The Parties' agree to execute any and all documents that may be necessary and proper to effectuate the terms of this Agreement, including the registration of the Parties' respective marks.
11. This Agreement is binding on the Parties, their licensees, their assigns, successors-in-interest, or related companies.
12. This Agreement contains the entire agreement between the Parties and may only be amended or supplemented in a writing signed by both Parties.
13. This Agreement shall be governed by the laws of the Commonwealth of Pennsylvania, without regard to conflicts of laws principles.
14. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original. Any facsimile signature of any Party hereto shall constitute a legal, valid and binding execution by such Party.
15. All claims or controversies regarding this Agreement or breach hereof shall be settled by arbitration before a single arbitrator in Philadelphia, Pennsylvania and administered by the American Arbitration Association in accordance with its commercial arbitration rules therein effect, and the decision of the arbitrator shall be final and binding and may be entered in any court having jurisdiction.
16. If any provision of this Agreement is held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions hereof.

IN WITNESS WHEREOF, intending to be legally bound hereby, the Parties hereto have caused this Settlement Agreement to be executed on their behalf by their respective representatives hereunder duly authorized, all as of the last date set forth below.

CLARITI TELECOM, INC.

§

Dated: _____

By _____

Name: Carl A. Saling, III
Title: President

IDT NETHERLANDS, B.V. (PUERTO RICO BRANCH)

Dated: _____

By _____

Name: Douglas Mauro
Title: President

IN WITNESS WHEREOF, intending to be legally bound hereby, the Parties hereto have caused this Settlement Agreement to be executed on their behalf by their respective representatives hereunder duly authorized, all as of the last date set forth below.

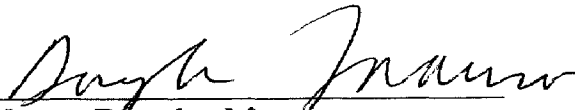
CLARITI TELECOM, INC.

Dated: _____

By _____
Name: Carl A. Saling, III
Title: President

IDT NETHERLANDS, B.V. (PUERTO RICO BRANCH)

Dated: 04-24-01

By 
Name: Douglas Mauro
Title: President

IN WITNESS WHEREOF, intending to be legally bound hereby, the Parties hereto have caused this Settlement Agreement to be executed on their behalf by their respective representatives hereunder duly authorized, all as of the last date set forth below.

Dated: 5/01/2001

CLARITI TELECOM, INC.
By [Signature]
Name: Carl A. Saling, III
Title: President

IDT NETHERLANDS, B.V. (PUERTO RICO BRANCH)

Dated: _____

By _____
Name: Douglas Mauro
Title: President

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