

09-14-2001

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RECORDATION FORM COVER SHEET TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

Submission Type

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

Conveyance Type

- Assignment License
- Security Agreement Nunc Pro Tunc Assignment
- Merger Effective Date
Month Day Year
- Change of Name
- Other Asset Purchase Agreement

Conveying Party

Mark if additional names of conveying parties attached
Execution Date
Month Day Year

Name Open Source Development Network, Inc.

04 06 2001

Formerly

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

Receiving

Mark if additional names of receiving parties

Name Custom Communications, Inc.

DBA/AKA/TA

Composed of

Address (line 1) 57 Wells Avenue

Address (line 2)

Address (line 3) Newton

MA

02459

- Individual General Partnership Limited Partnership
- Corporation Association
- Other

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.)

Citizenship/State of Incorporation/Organization Massachusetts

FOR OFFICE USE ONLY

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

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Domestic Representative Name and Address

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

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="76/008,760"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<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.

Gailyc C. Sonia _____
Name of Person Signing Signature Date Signed

ASSET PURCHASE AGREEMENT

This Agreement made this 6 day of April, 2001 by and between Custom Communications, Inc. (CCI), a Massachusetts Corporation, and Open Source Development Network, Inc. (OSDN), a Delaware Corporation.

Whereas, OSDN has developed and published a magazine known as "Open Magazine" and

Whereas OSDN wishes to sell to CCI and CCI wishes to purchase from OSDN all of OSDN's right, title and interest in and to Open Magazine, and Open Magazine's website, subscriber lists, copyrights, trademarks, advertising contracts, back issues, miscellaneous supplies, and other assets connected with publication, production, distribution and business of Open Magazine.

Now, therefore, CCI and OSDN agree as follows:

1. OSDN hereby sells, transfers and assigns to CCI, and CCI hereby purchases from OSDN all of OSDN's right, title and interest in and to Open Magazine, and all materials, contracts, and rights pertaining thereto including, without limitation:
 - (a) All Open Magazine subscriber lists
 - (b) Copyright and trademarks applied for or applying to Open Magazine
 - (c) Content, both editorial and design, for both print and electronic format
 - (d) All existing advertising contracts
 - (e) Entire back issue inventory
 - (f) Website/domain name known as OpenMagazine.net
 - (g) Fulfillment contract dated May 1, 2000, with Omeda Communications, Inc.
 - (h) Library of Congress ISSN No. 1330-9495
 - (i) U.S. Post Office periodicals permit number
 - (j) Membership in Business Publication Association (BPA)
 - (k) Unused Open Magazine paper inventory, for which CCI has agreed to pay

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OSDN the sum of one dollar (\$1.00).

- (l) All rights to republish any portions, including editorial and design, of issues of Open Magazine previously published by OSDN, i.e. prior to April, 2001.

Expressly excluded from the items CCI is purchasing are all of OSDN's contracts with vendors associated with the publication, production or distribution of Open Magazine, except these expressly described above.

2. CCI will:

- (a.) Provide OSDN with access to the subscriber database once each month for postal, telephone and airmail usage
- (b.) Maintain and periodically update the subscriber database
- (c.) Pay OSDN five dollars for each new qualified subscriber to Open Magazine provided to CCI through the Omeda Qualification Report System
- (d.) Provide OSDN with two pages free advertising in each monthly issue of Open Magazine. The advertising may be either a two page spread or two single pages, at OSDN's discretion. These will be full pages and four color.
- (e.) Pay OSDN \$10,000 by April 27, 2001 for the advertising campaign described in paragraph 3 (a) below
- (f.) Offer employment to former OSDN employees Michael Lamattina, Jack Fegreus, Nancy Cohen, Jeff Pappas, and Richard Sarno.
- (g.) Except as provided in Paragraph 3(c) (II). Indemnify and hold harmless OSDN against any and all claims, damages, costs, judgements, and expenses including attorney's fees arising out or resulting from claims for libel, slander, defamation or copyright infringement arising out of publication of issues of Open Magazine beginning with the April 2001 issue.

3.) OSDN will:

- (a) Endeavor, in good faith on a monthly basis, to provide CCI at least 2,000 new qualified subscribers to Open Magazine. OSDN'S efforts will include the preparation and implementation of an on-line adverting banner campaign reasonably likely to

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produce the aforementioned new qualified subscribers to Open Magazine.

- (b) Maintain, and pay all costs associated with, the OpenMagazine.net Website.
- (c) Indemnify and hold CCI harmless against any and all claims, damage, costs, judgments, and expenses, (including attorney's fees) arising out or resulting from (I) claims for trademark or copyright infringement in relation to use of the name "Open Magazine". (ii) claims for libel, slander, defamation or copyright infringement arising out of republication of the contents of Open Magazine published by OSDN, i.e. issues published prior to April 2001, (i) claims by OSDN vendors whose contracts CCI is not expressly assuming pursuant to Paragraph 1 of this Agreement.

4. As described in Paragraph 3 b, OSDN will pay all costs associated with maintaining the OpenMagazine.net website. In return, to compensate OSDN for said maintenance, CCI will pay OSDN an amount equal to 40% of monthly banner advertising revenue, to a cap of \$4,000 per month (i.e. 40% of \$10,000 in banner advertising equals \$4,000 paid to OSDN). All advertising revenue generated in excess of \$10,000 per month, if any, will be retained by Open Magazine.

5. OSDN and CCI will negotiate in good faith to sell and purchase, respectively, the computer equipment associated with Open Magazine.

6. CCI will have the exclusive rights to publish all issues of Open Magazine beginning with the April, 2001 issue and will pay all expenses associated therewith and retain all advertising and other revenue generated thereby.

7. OSDN will be entitled to retain all revenues for advertising published in Open Magazine prior to the April 2001 edition.

8. OSDN's representation and warranties:

- (a.) OSDN is the sole owner of all the rights and materials, contracts, copyrights, trademarks, and other items, tangible or intangible, described in Paragraph 1 above; all copyrights and trademarks which are the subject of this agreement are valid and duly and properly registered in OSDN's name; none of the items described in the Paragraph 1 above are subject to any lien or other encumbrance or claim to any option or other right in favor of a third party; and, no consent or approval by or notice to any third party is required in connection with the sale to CCI of the items described in Paragraph 1 above;

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- (b.) except for those rights sold to CCI under this Agreement, OSDN does not own or have any rights nor to any patent, copyright, trademark, service mark or other right pertaining to Open Magazine.
 - (c.) neither any of the items described in Paragraph 1, nor the use of any of them violates or infringes any patent, copyright, trademark, service mark or other right, contains any libelous or defamatory material or any material which OSDN was not duly authorized to use, or misuse or misappropriates any trade secret or confidential information;
 - (d.) there is no litigation or claim pending or threatened with respect to any of the items described in Paragraph 1;
 - (e.) the items described in Paragraph 1 do not constitute a substantial part of the materials, supplies, merchandise or other inventory of OSDN;
 - (f.) the execution, delivery and performance of this Agreement has been duly authorized by OSDN's board of directors.
9. The representation and warranties of OSDN under Paragraph 8 will survive execution of this Agreement. OSDN will indemnify CCI against any liability and will hold CCI harmless from and pay any loss, damage, cost and expense (including, without limitation, legal fees, court costs, and the cost of appellate proceedings) which CCI incurs arising out of a breach of any of said representations and warranties or any claim against CCI alleging facts which, if true, would result in a breach of any said representations and warranties.
10. CCI represents and warrants to OSDN that the execution, delivery and performance of this Agreement has been duly authorized by CCI's board of directors.
11. CCI alone will have the right throughout the world to publish Open Magazine.
12. For a period of three years from the date of this Agreement, OSDN will not develop, manufacture, promote, market, sell or otherwise exploit, and will not participate directly or indirectly in the development, manufacture, promotion, marketing, sale or other exploitation of any publication substantially similar in content which would compete with Open Magazine.
13. OSDN acknowledges that violation of any of the provisions of Paragraphs 11 and 12 will cause irreparable loss and harm to Buyer which cannot be reasonably or adequately compensated by damages in an action of law, and, accordingly, that Buyer will be entitled, without posting bond or other security, to injunctive and other equitable relief to prevent or cure any breach or threatened breach thereof, but no action for any such relief shall be deemed to waive the right of CCI to an action for damages. For purposes of any such proceeding, OSDN submits to the non-exclusive

jurisdiction of the courts of the Commonwealth of Massachusetts and OSDN agrees not to raise and waive any objection to or defense based on the venue of any such court or forum non conveniens.

14. OSDN will execute such additional documents as CCI may reasonably request to vest or confirm the vesting in CCI of all of the items described in Paragraph 1 and title thereto.
15. This Agreement may be amended only by an instrument in writing signed by OSDN and CCI.
16. The invalidity or unenforceability of any provision of this Agreement under any present or future law, rule, regulation, ordinance, or judicial ruling will not affect any other provision of this Agreement and the remaining provisions of this Agreement shall continue with the same force and effect as if such invalid or unenforceable provision had not been inserted in this Agreement.
17. This Agreement will be governed by and constructed in accordance with the law of the Commonwealth of Massachusetts.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

Custom Communications, Inc. (CCI)
57 Wells Avenue
Newton, MA 02459

By: [Signature]
Its: Pres + CEO
Duly Authorized

Open Source Development Network, Inc. (OSDN)
50 Nagog Park
Acton, MA 01720

By: [Signature]
Its: SVP & GM OSDN
Duly Authorized

[Handwritten mark]