

MRD

03-07-2002



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D  
Docket No.:

MET230/55000

Tab settings → → → ▼  
To the Honorable Commissioner of Patents

Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):  
**Nortel Networks Limited**

Individual(s)                       Association  
 General Partnership               Limited Partnership  
 Corporation-State **Canada**  
 Other \_\_\_\_\_

Additional names(s) of conveying party(ies)       Yes  No

2. Name and address of receiving party(ies):

Name: **MetaSolv Softwar**

Internal Address: \_\_\_\_\_

Street Address: **5560 Te**                      **02-26-2002**  
U.S. Patent & TMO/TM Mail Rpt Dt. #67

City: **Plano**                      State: **TX**      ZIP: **75024**

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State **Delaware**  
 Other \_\_\_\_\_

If assignee is not domiciled in the United States, a domestic designation is       Yes  N  
(Designations must be a separate document from  
Additional name(s) & address(es)       Yes  N

3. Nature of conveyance:

Assignment                       Merger  
 Security Agreement               Change of Name  
 Other \_\_\_\_\_

Execution Date: **February 1, 2002**

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

A. Trademark Application No.(s)  
**75/733,376      75/807,906**

Additional numbers

B. Trademark Registration No.(s)  
**2,018,707      1,953,13**  
**1,485,116**

**02-26-2002**  
U.S. Patent & TMO/TM Mail Rpt Dt. #67

Yes  No

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

Name: **Catherine Fancher**

Internal Address: \_\_\_\_\_

Street Address: **Vinson & Elkins L.L.P., 2001 Ross Ave.,**  
**Suite 3700**

City: **Dallas**                      State: **TX**      ZIP: **75201**

6. Total number of applications and registrations involved:..... **6**

7. Total fee (37 CFR 3.41):.....\$ **\$165.00**

Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number:  
**22-0365**

03/06/2002 LUELLER 00000024 75733376  
01 FC:481                      40.00 DP  
02 FC:482                      125.00 DP

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.

**Catherine Fancher**                      *Cath Fancher*                      **February 21, 2002**  
Name of Person Signing                      Signature                      Date

Total number of pages including cover sheet, attachments, and

**8**

## ASSIGNMENT OF TRADEMARKS

WHEREAS, Nortel Networks Limited, a Canadian corporation, whose principal office or place of business is at 8200 Dixie Road, Suite 100, Brampton, Ontario, Canada, L6T 5P6 (“Nortel Networks”), is the owner of the trademarks and the associated applications and registrations identified in Exhibit A attached hereto (the “Assigned Trademarks”);

WHEREAS, Nortel Networks and MetaSolv Software, Inc., a Delaware corporation, whose principal office or place of business is at 5560 Tennyson Parkway, Plano, Texas 75024 (“Assignee”), each executed an Asset Purchase Agreement, dated as of January 21, 2002 (the “Purchase Agreement”), providing for the sale of certain assets (including the Assigned Trademarks) from Nortel Networks and certain of its Affiliates to Assignee and requiring that Nortel Networks execute this Assignment;

WHEREAS, Assignee is desirous of acquiring all of the right, title and interest to the Assigned Trademarks and all of their associated goodwill.

NOW THEREFORE, for good and valuable consideration, including the execution of the Purchase Agreement by Assignee, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Nortel Networks does hereby sell, assign and transfer to Assignee all right, title and interest in and to the Assigned Trademarks, including all associated applications and registrations and common law rights, together with the goodwill attaching to the said Assigned Trademarks, in each case only as it pertains to the country noted with respect to each such Assigned Trademark and the associated applications and registrations in Exhibit A.

To the extent reasonably necessary to give effect to the foregoing, upon Assignee's request, Nortel Networks shall execute such documents and do such other lawful acts to perfect such trademark rights, at Assignee's cost, as Assignee may reasonably request. Further, to give effect to the foregoing, and, upon the written request of Assignee, Nortel Networks agrees to provide reasonable assistance to Assignee, at Assignee's expense, to the extent legally necessary to lawfully enforce the Assigned Trademarks.

2. Except as provided in the Intellectual License Agreement dated as of February 1, 2002 that was entered into between the parties, Nortel Networks will discontinue all use of the Assigned Trademarks on or before the effective date of this Assignment of Trademarks as set forth below, and will not subsequently use any Assigned Trademark.

3. Nortel Networks agrees that it will not, in any jurisdiction, challenge, oppose, apply to register or maintain any application for registration, or seek to cancel the use or registration of any Assigned Trademark.

4. This Agreement (a) will bind and inure to the benefit of the parties and the successors, heirs, assigns, affiliates and related companies of each party; and (b) may be amended or modified only by the mutual written consent of the parties.

5. The terms and conditions of this Agreement will be construed under the laws of the Province of Ontario, Canada, and any federal laws of Canada applicable therein. Each of the parties irrevocably attorns and submits to the non-exclusive jurisdiction of the Superior Court of Justice of Ontario or such other Ontario court as shall be applicable to the matter.

6. The relationship between the parties is that of independent contractors. Neither party is an agent, partner, joint-venturer, affiliate or employee of the other. No fiduciary relationship exists between the parties.

7. Any notice required or permitted under this Agreement must be made in writing and transmitted by electronic mail, electronic facsimile or delivered by a national courier or U.S. Postal Service to the addresses below.

If to Nortel Networks:                      Nortel Networks Limited  
8200 Dixie Road, Suite 100  
Brampton, Ontario, Canada L6T 5P6  
Facsimile: (905) 863-8431  
Attention: Vice President, Intellectual Property Law

With copy to:                                      Nortel Networks Limited  
8200 Dixie Road, Suite 100  
Brampton, Ontario, Canada L6T 5P6  
Facsimile: (905) 863-8261  
Attention: Vice-President, Mergers & Acquisitions

If to Assignee:                                      MetaSolv Software, Inc.  
5560 Tennyson Parkway  
Plano, Texas 75024  
Facsimile:     972-403-8989  
Attention:     Jonathan K. Hustis

With copy to:                                      MetaSolv, Inc.  
5560 Tennyson Parkway  
Plano, Texas 75024  
Facsimile:     972-403-8989  
Attention:     Jonathan K. Hustis

8. Any delay or failure of performance under this agreement resulting from *force majeure* conditions such as natural disasters, acts of governments, labor disputes or boycotts are excused for the duration of the *force majeure* condition only.

9. If any provision of this Agreement is determined to be illegal and unenforceable by any court of law or any competent governmental or other authority the remaining provisions will be severable and enforceable in accordance with their terms so long as this Agreement without such illegal and unenforceable terms or provisions does not fail of its essential purpose or purposes. The parties will negotiate in good faith to replace any such illegal or unenforceable provision or provisions with suitable substitute provisions which will maintain the economic purposes and intentions of this Agreement.

10. The failure of either party to insist in any one or more instances upon the performance of any term, obligation or condition of this Agreement or to exercise any right or privilege of this Agreement will not be construed as a continuing waiver of such term, obligation or condition or the relinquishment of such right or privilege, and the acknowledged waiver or relinquishment by either party of any default or right will not constitute waiver of any other default or right. No waiver will be deemed to have been made unless expressed in writing and signed by the waiving party.

11. The terms of this assignment and the terms and conditions of the Purchase Agreement (the "Terms") set forth the entire agreement and understanding between the parties with respect to the Assigned Trademarks. The Terms supersede and cancel all previous negotiations, agreements, commitments and writings in respect to the Assigned Trademarks, and neither party hereto shall be bound by any term, clause, provision or condition save as expressly provided in these Terms or as duly set forth on or subsequent to the date hereof in writing, signed by duly authorized officers of the parties.

IN WITNESS WHEREOF, Nortel Networks and Assignee have each caused these presents to be executed under their corporate seal and the hands of their duly authorized officers, this 1<sup>st</sup> day of February, 2002.

NORTEL NETWORKS LIMITED

By: 

Name: \_\_\_\_\_

Title: \_\_\_\_\_

METASOLV SOFTWARE, INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

IN WITNESS WHEREOF, Nortel Networks and Assignee have each caused these

presents to be executed under their corporate seal and the hands of their duly authorized officers,

this 1<sup>st</sup> day of February, 2002.

NORTEL NETWORKS LIMITED

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

METASOLV SOFTWARE, INC.

By:  \_\_\_\_\_

Name: Jonathan K. Hustis

Title: Vice President - Business Services

**EXHIBIT A****TRADEMARK APPLICATIONS AND REGISTRATIONS**

<u>TRADE-MARK</u>	<u>COUNTRY</u>	<u>APPLICATION/ SERIAL NUMBER</u>	<u>STATUS</u>
INTERGATE**	U.S.A.	75—733,376	Pending*
E.ASY	Canada	1,030,265	Pending*
E.ASY	U.S.A.	75-807,906	Pending*

\* Architel does not intend to continue prosecuting the three trade-mark applications listed above, and will allow them to lapse in due course.

\*\* In the U.S.A., the registrability of the Trade-mark INTERGATE has not yet been decided. U.S. Application Serial Number 75-733,376 has not yet been examined or published in the U.S. Official Gazette for the purpose of opposition by third parties.

<u>TRADE-MARK</u>	<u>COUNTRY</u>	<u>REGISTRATION NUMBER</u>
A Design	Canada	TMA 331,733
ACCU/CAD	Canada	TMA 338,721
ACCUGRAPH	Canada	TMA 336,465
ACCUGRAPH & Design	Canada	TMA 449,945
ACCUGRAPH CORPORATION & Design	Canada	TMA 347,651
ACCUGRAPH CORPORATION DESIGNS ON THE FUTURE ... & Design	Canada	TMA 357,285
LATHEMASTER	Canada	TMA 351,009
MOUNTAIN TOP	Canada	TMA 386,610
MULTICUT	Canada	TMA 334,973
MULTILATHE	Canada	TMA 339,817
MULTIPUNCH	Canada	TMA 334,823
THE POWER TO MANAGE	U.S.A.	2,018,707
THE POWER TO MANAGE	U.S.A.	1,953,135
A ACCUGRAPH	U.S.A.	1,887,029
ACCUGRAPH	U.S.A.	1,485,116