

08-07-2002



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ATTY. DOCKET NO. 2567/2

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

FINANCE SECTION

1. Name of conveying part(ies)

Propellerheads, Inc.

- Individual
- General Partnership
- Corporation - New Jersey
- Other limited liability company

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

2. Name and address of receiving party(ies)

Name: Propeller Heads Software, Inc.

Internal Address: same as street address

Street Address: 10612-D Providence Road, #340

City/State/Zip: Charlotte, NC 28277

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State North Carolina
- 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 attached? Yes No

3. Nature of Conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Effective Date June 24, 2002

4. Application Number(s) or patent number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

SEE ATTACHED

Additional numbers attached? Yes No

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

Name: J. Scott Evans, Esq.
 ADAMS, SCHWARTZ & EVANS, P.A.
 2180 Two Wachovia Center
 301 S. Tryon St.
 Charlotte, NC 28282

6. Total Number of applications and registrations involved: 1

7. Total Fee (37 C.F.R. 3.41) \$40.00

- Enclosed
- Authorized to be charged to deposit for deficiencies only

8. Deposit Account No. 01-0265

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.

J. Scott Evans, Esq.
Name of Person Signing

Signature

July 31, 2002
Date

Total number of pages including cover sheet, attachments, and document: 9

08/07/2002 6T0M11 00000031 2405183

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40.00

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Attn: BOX ASSIGNMENTS, Commissioner for Patents and Trademarks, Washington, D.C. 20231 on July 31, 2002.

Date of Signature: July 31, 2002.

Signature

Lynda R. Williams

TRADEMARK

REEL: 002556 FRAME: 0801

REGISTRATION NO.	MARK	DESCRIPTION
2,405,183	PROPELLERHEADS, INC.	Word Mark

SETTLEMENT AND TRADEMARK ASSIGNMENT AGREEMENT

This is a Settlement and Trademark Assignment Agreement (the "Agreement") by and between, Jeffrey Turin, an individual and Propellerheads, Inc., a New Jersey corporation, having a business address of 264 9th St – Apt 2D Jersey City, NJ 07302 and formerly having a business address of 835 Linwood Ave., Collingswood, NJ 08108 (hereinafter collectively referred to as "ASSIGNOR") and Propeller Head Software, Inc., a North Carolina corporation, having a principal place of business at 10612-D Providence Road, #340, Charlotte, NC 28277 (hereinafter "ASSIGNEE");

WHEREAS, ASSIGNOR is the owner of all right, title and interest in and to the service mark PROPELLERHEADS, INC. and U.S. Trademark Registration No. 2,405,183 therefore (hereinafter collectively referred to as the "Trademark");

WHEREAS, ASSIGNEE is the owner of the PROPELLER HEAD SOFTWARE and PROPELLER HEAD SOFTWARE + Design service mark (hereinafter the "Propeller Head Marks");

WHEREAS, ASSIGNEE has asserted that ASSIGNOR's use of the Trademark infringes its Propeller Head Marks; and

WHEREAS, ASSIGNOR has asserted that ASSIGNEE's use of the Propeller Head Marks infringes the Trademark;

WHEREAS, ASSIGNOR desires to assign the Trademark to ASSIGNEE in order to settle the instant dispute; and

WHEREAS, ASSIGNEE desires to acquire the Trademark, together with the goodwill of the business symbolized thereby; and

WHEREAS, the parties wish to compromise and settle finally and completely all claims which exist between them under the terms of this Agreement.

NOW, THEREFORE, in consideration for the premises and of the mutual promises and undertakings of the parties set forth herein, the parties hereby agree as follows:

1. ASSIGNOR shall and does hereby assign, transfer, grant, convey and set over unto ASSIGNEE, its successors and assigns throughout the world, all of ASSIGNOR's right, title and interest in and to the Trademark together with the goodwill symbolized by the Trademark.
2. ASSIGNOR agrees to execute and deliver at the request of the ASSIGNEE, all papers, instruments and assignments, and to perform any other reasonable acts the ASSIGNEE may require in order to vest all ASSIGNOR's rights, title and interest in and to the Trademark in ASSIGNEE.
3. ASSIGNEE agrees to pay four thousand five hundred U.S. dollars (\$4,500.00) to ASSIGNOR. Said payment shall be made in three payments of one thousand five hundred U.S. dollars (\$1,500.00) with the first payment due on July 1, 2002, the second on August 30, 2002, and the third payment on September 27, 2002.
4. Beginning the Effective Date of this Agreement, ASSIGNOR shall cease and forever forbear from using the Trademark or any trademark, service mark, trade name or domain name similar thereto.
5. ASSIGNEE hereby releases Jeffrey Turin and ASSIGNOR and all officers, directors, shareholders, employees, representatives, successors-in-interests and assigns from any and all claims, actions, and causes of action arising from or in connection with any use of the Trademark; provided, however, that

nothing in this paragraph 5 shall prevent the ASSIGNEE from enforcing any term, covenant, condition or provision of this Agreement.

6. ASSIGNOR hereby releases ASSIGNEE its officers, directors, shareholders, employees, representatives, successors in interests and assigns from any and all claims, actions, and causes of action arising from or in connection with any use of the Propeller Head Marks or any trademark, service mark, trade name or domain name similar thereto; provided, however, that nothing in this paragraph 6 shall prevent the ASSIGNOR from enforcing any term, covenant, condition or provision of this Agreement.

7. This Agreement shall be binding upon and inure to the benefit of the parties hereto their respective successors and assigns.

8. This Agreement contains the entire agreement between the parties hereto and may not be modified in any of its terms other than by a written instrument signed by both parties.

9. Each party to this Agreement acknowledges that it has read this Agreement, and that it fully understands and appreciates its contents, and that it executes this Agreement voluntarily and of its own free will.

10. Waiver or any breach of this Agreement by any party shall not be waiver of any other breach of this Agreement.

11. This Agreement shall be construed without regard to the party or parties responsible for the preparation of the same and this Agreement shall be deemed as prepared jointly by the parties hereto. Any ambiguity or uncertainty existing herein shall not be interpreted or construed against either party hereto.

12. If any term, covenant, condition or provision of this Agreement or the application thereof to any person or circumstance, shall, to any extent be invalid or unenforceable, the remainder of this Agreement or application of such term or provision to any person or circumstance other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition or provision of this Agreement shall be valid and shall be enforced to the fullest extent provided by law.

13. This Agreement may be executed in counterparts. The signatories represent and warrant that they have full authority to enter into this Agreement on behalf of the entity for whom they have signed.

14. The validity of this Agreement and the rights, obligations and relations of the parties hereunder shall be construed and determined under and in accordance with the laws of the State of North Carolina; provided, however, that no effect shall be given to any choice of laws principles which would require this Agreement to be interpreted under the laws of any other jurisdiction.

15. The "Effective Date" of this Agreement shall be June 24, 2002.

16. In the event of non-payment by ASSIGNOR hereunder, ASSIGNOR agrees to pay all costs and expenses of collection, including, without limitation, reasonable attorneys' fees and legal costs, incurred by or on behalf of ASSIGNEE.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, ASSIGNOR has caused this Assignment to be duly executed and delivered as of this 2 day of July, 2002.

PROPELLERHEADS, INC.

By: [Signature] (SEAL)
Title: President

NOTARY ACKNOWLEDGMENT

STATE OF New Jersey
COUNTY OF Union

I, Debra Wanamaker, a Notary Public for said County and State do hereby certify that Jeffrey Turin appeared before me personally and signed the aforementioned document.

This the 2 day of July, 2002

My Commission Expires: **DEBRA ANN WANAMAKER
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 4/7/2004** Notary Public

(SEAL)

JEFFREY TURIN

[Signature]

NOTARY ACKNOWLEDGMENT

STATE OF New Jersey
COUNTY OF Union

I, Debra Wanamaker, a Notary Public for said County and State do hereby certify that Jeffrey Turin appeared before me personally and signed the aforementioned document.

This the 2 day of July, 2002

My Commission Expires: **DEBRA ANN WANAMAKER
NOTARY PUBLIC OF NEW JERSEY
Commission Expires 4/7/2004** Notary Public

(SEAL)

[SIGNATURES CONTINUED ON NEXT PAGE]

RUSSELL F. BRASHER

By: *Russell F. Brasher*

Title: *PRESIDENT*

NOTARY ACKNOWLEDGMENT

STATE OF

COUNTY OF

I, *Cynthia P. Hann*, a Notary Public for said County and State do hereby certify that *Russell Forrest Brasher* appeared before me personally and signed the aforementioned document.

This the *29th* day of *June*, 2002

My Commission Expires: *December 4th 2005*

Notary Public *Cynthia P. Hann*

(SEAL)