

12-04-2002

12-4-02

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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):

InterState FiberNet, Inc.

12-4-02

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

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

3. Nature of conveyance:

- Assignment, Security Agreement (checked), Other, Merger, Change of Name

Execution Date:

2. Name and address of receiving party(ies)

Name: Morgan Stanley & Co., Incorporated

Internal Address:

Street Address: 1585 Broadway

City: New York State: NY Zip: 10036

- Individual(s) citizenship, Association, General Partnership, Limited Partnership, Corporation-State (checked), 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) 76/010576

B. Trademark Registration No.(s) 2,071,650

See Attached

Additional number(s) attached Yes No

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

Name: Caroline Demirs, Esq.

Internal Address: Kronish Lieb Weiner & Hellman

LLP

Street Address: 1114 Avenue of the Americas

City: New York State: NY Zip: 10036

6. Total number of applications and registrations involved:

13

7. Total fee (37 CFR 3.41): \$ 340.00

- Enclosed (checked), Authorized to be charged to deposit account

8. Deposit account number:

N/A

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9. Signature.

Adam I. Hasson (awaiting admission)

Name of Person Signing

Signature

Signature

December 3, 2002

Date

Total number of pages including cover sheet, attachments, and document: 14

12/05/2002 GTON11 00000042 76010576

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

01 FC:8521 02 FC:8522

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TRADEMARK REEL: 002627 FRAME: 0069

CONTINUATION

SECTION 1

Additional Conveying Parties

2. ITC^DELTACOM, INC.

3. ITC^DELTACOM COMMUNICATIONS INC.

CONTINUATION

SECTION 4

Additional Registration/Application Numbers

3. 2,071,715
4. 2,405,331
5. 2,405,335
6. 2,407,859
7. 2,407,860
8. 2,528,538
9. 1,348,561
10. 2,158,977
11. 2,202,649
12. 2,160,578
13. 2,203,677

**AMENDED AND RESTATED
INTELLECTUAL PROPERTY SECURITY AGREEMENT**

This AMENDED AND RESTATED INTELLECTUAL PROPERTY SECURITY AGREEMENT (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*IP Security Agreement*") dated as of October 29, 2002, is made by the Persons listed on the signature pages hereof (collectively, the "*Grantors*") in favor of Morgan Stanley & Co. Incorporated, as collateral agent (the "*Collateral Agent*") for the Secured Parties (as defined in the Credit Agreement referred to below).

WHEREAS, Interstate FiberNet, Inc., a Delaware corporation, entered into a Credit Agreement dated as of April 5, 2000 (the "*Initial Credit Agreement*") with the Lender Parties and the Agents named therein, pursuant to which the Grantors executed and delivered to the Collateral Agent for the Secured Parties a Security Agreement dated April 5, 2000 and an Intellectual Property Security Agreement dated April, 2000;

WHEREAS, in order to restructure, continue, convert and consolidate the loans advanced to the Borrower by the Lender Parties under the Initial Credit Agreement, the Lender Parties, the Loan Parties and the Agents have entered into an Amended and Restated Credit Agreement, dated as of October 29, 2002 (as may be amended from time to time, the "*Credit Agreement*"); any capitalized term used herein and not otherwise defined has the meaning set forth in the Credit Agreement;

WHEREAS, as a condition precedent to the Amendment Effective Date, each Grantor has executed and delivered that certain Amended and Restated Security Agreement dated as of October 29, 2002 made by the Grantors to the Collateral Agent (as amended, amended and restated, supplemented or otherwise modified from time to time, the "*Security Agreement*"); and

WHEREAS, under the terms of the Security Agreement, Grantors have granted a security interest in, among other property, certain intellectual property of the Grantors to the Collateral Agent for the ratable benefit of the Secured Parties, and have agreed as a condition thereof to execute this IP Security Agreement covering such intellectual property for recording with the U.S. Patent and Trademark Office, the United States Copyright Office and other governmental authorities;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, each Grantor agrees as follows:

SECTION 1. Grant of Security. Each Grantor hereby grants to the Collateral Agent for the ratable benefit of the Secured Parties a security interest in and to all of such Grantor's right, title and interest in and to the following (the "*Collateral*"):

(i) the United States, international, and foreign patents and patent applications set forth in Schedule A hereto (as such Schedule A may be supplemented from time to time by supplements to the Security Agreement and this IP Security Agreement, each such supplement being in substantially the form of Exhibit D to the Security Agreement (an "*IP Security Agreement Supplement*"), executed and delivered by such Grantor to the Collateral Agent from

time to time), together with all reissues, divisions, continuations, continuations-in-part, extensions and reexaminations thereof, and all rights therein provided by international treaties or conventions (the "**Patents**");

(ii) the United States and foreign trademark and service mark registrations and applications set forth in Schedule B hereto (as such Schedule B may be supplemented from time to time by IP Security Agreement Supplements executed and delivered by such Grantor to the Collateral Agent from time to time) (the "**Trademarks**");

(iii) the United States and foreign copyright registrations and applications set forth in Schedule C hereto (as such Schedule C may be supplemented from time to time by IP Security Agreement Supplements executed and delivered by such Grantor to the Collateral Agent from time to time) (the "**Copyrights**");

(iv) any and all claims for damages for past, present and future infringement, misappropriation or breach with respect to the Patents, Trademarks and Copyrights, with the right, but not the obligation, to sue for and collect, or otherwise recover, such damages; and

(v) any and all proceeds of the foregoing.

Notwithstanding anything herein to the contrary, the Collateral shall not include any equipment and related computer programs, documentation, licenses and sublicenses, and any additions, attachments and accessions to, and replacements of, any of the foregoing, any agreements with the supplier of any or all of the foregoing and purchase orders submitted to such supplier, and any products and proceeds of any of the foregoing, pledged as collateral to secure the GECC Capital Lease, the NTFC Capital Lease or any other Capitalized Lease constituting Surviving Debt as of the Amendment Effective Date.

SECTION 2. Security for Obligations. The pledge and the grant of a security interest in, the Collateral by each Grantor under this IP Security Agreement secures the payment of all Obligations of such Grantor now or hereafter existing under or in respect of the Loan Documents, whether direct or indirect, absolute or contingent, and whether for principal, reimbursement obligations, interest, premiums, penalties, fees, indemnifications, contract causes of action, costs, expenses or otherwise.

The parties hereto intend to maintain the validity, effectiveness, enforceability, perfection and priority of the Collateral Documents delivered under the Initial Credit Agreement (the "**Original Security Documents**") and this IP Security Agreement is intended, inter alia, to extend the obligations and indebtedness secured by the security interests and pledges created and affected by the Original Security Documents, in each case, except as specifically provided herein, including, without limitation, in the last paragraph of Section 1, without terminating, limiting, modifying or otherwise affecting the validity, effectiveness, enforceability, perfection and priority of the security interests or the pledges created and affected in respect thereof. To the extent that any security interest or pledge granted pursuant to the Original Security Documents relates to collateral in which the Grantors have previously granted a security interest to the Collateral Agent, this IP Security Agreement shall, except as specifically provided herein,

including, without limitation, in the last paragraph of Section 1, confirm the validity, effectiveness, enforceability and continuation of such security interest or pledge as against the Grantors. All of the terms and provisions of the Original Security Documents are hereby confirmed and ratified in all respects, except as specifically modified herein.

Without limiting the generality of the foregoing, this IP Security Agreement secures, as to each Grantor, the payment of all amounts that constitute part of the Secured Obligations and would be owed by such Grantor to any Secured Party under the Loan Documents but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving a Loan Party.

SECTION 3. Recordation. Each Grantor authorizes and requests that the Register of Copyrights, the Commissioner of Patents and Trademarks and any other applicable government officer record this IP Security Agreement.

SECTION 4. Execution in Counterparts. This IP Security Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 5. Grants, Rights and Remedies. This IP Security Agreement has been entered into in conjunction with the provisions of the Security Agreement. Each Grantor does hereby acknowledge and confirm that the grant of the security interest hereunder to, and the rights and remedies of, the Collateral Agent with respect to the Collateral are more fully set forth in the Security Agreement, the terms and provisions of which are incorporated herein by reference as if fully set forth herein.

SECTION 6. Governing Law. This IP Security Agreement shall be governed by, and construed in accordance with, the laws of the State of New York.

IN WITNESS WHEREOF, each Grantor has caused this IP Security Agreement to be duly executed and delivered by its officer thereunto duly authorized as of the date first above written.

INTERSTATE FIBERNET, INC.

By 

Name: Douglas A. Shumate
Title: Senior Vice President and Chief
Financial Officer

Address for Notices:
1791 O.G. Skinner Drive
West Point, GA 31833
Attention: Douglas Shumate

ITC^DELTACOM, INC.

By 

Name: Douglas A. Shumate
Title: Senior Vice President and Chief
Financial Officer

Address for Notices:
1791 O.G. Skinner Drive
West Point, GA 31833
Attention: Douglas Shumate

ITC^DELTACOM COMMUNICATIONS INC.

By 

Name: Douglas A. Shumate
Title: Senior Vice President and Chief
Financial Officer

Address for Notices:
1791 O.G. Skinner Drive
West Point, GA 31833
Attention: Douglas Shumate

**Schedule A to the
IP Security Agreement**

PATENTS

None.

**Schedule B to the
IP Security Agreement**

REGISTERED TRADE AND SERVICE MARKS

| Owner | Mark | Registration No. or Application Serial No. | Class(es) | Registration Date |
|--------------------|-------------|---|--|------------------------------|
| ITC^DeltaCom, Inc. | DELTACOM | U.S. Registration No. 2,071,650 | <p>38 (telecommunication services, namely, long distance telephone services, voice messaging telephone services, telephone conference calling services, enhanced inbound interactive telephone response services, and local exchange services, namely, telecom-munication services provided between two or more locations within the same geographically defined local calling area)</p> <p>42 (providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information)</p> | June 17, 1997 |

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**Schedule B to the
IP Security Agreement -- Continued**

REGISTERED TRADE AND SERVICE MARKS

| Owner | Mark | Registration No. or Application Serial No. | Class(es) | Registration Date |
|--------------------|-------------------------|---|--|--------------------------|
| ITC^DeltaCom, Inc. | DELTA^COM (& Design) | U.S. Registration No. 2,071,715 | <p>38 (telecommunication services, namely, long distance telephone services, voice messaging services, enhanced inbound interactive telephone response services, and local exchange services, namely, telecommunication services provided between two or more locations within the same geographically defined local calling area)</p> <p>42 (providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information)</p> | June 17, 1997 |
| ITC^DeltaCom, Inc. | ITC^DELTACOM | U.S. Registration No. 2,405,331 | <p>38 (telecommunications services, namely, local and long distance telephone services, telephone voice messaging services, telephone conference calling services, and local exchange services, namely, telephone communications services provided between two or more locations within the same geographically defined local calling area; and providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information)</p> | November 21, 2000 |

**Schedule B to the
IP Security Agreement -- Continued**

REGISTERED TRADE AND SERVICE MARKS

| Owner | Mark | Registration No. or Application Serial No. | Class(es) | Registration Date |
|--------------------|-------------------------|---|--|--------------------------|
| ITC^DeltaCom, Inc. | ITC^DELTACOM | U.S. Registration No. 2,405,335 | 42 (Hosting the web sites of others on a computer server for a global computer network, and computer services, namely, designing web sites for others) | November 21, 2000 |
| ITC^DeltaCom, Inc. | ITC DELTACOM (& Design) | U.S. Registration No. 2,407,859 | 38 (telecommunications services, namely, local and long distance telephone services, telephone voice messaging services, telephone conference calling services, and local exchange services, namely, telephone communications services provided between two or more locations within the same geographically defined local calling area; and providing multiple-user access to a global computer information network for the transfer and dissemination of a wide range of information) | November 28, 2000 |
| ITC^DeltaCom, Inc. | ITC DELTACOM (& Design) | U.S. Registration No. 2,407,860 | 42 (hosting the web sites of others on a computer server for a global computer network, and computer services, namely, designing web sites for others) | November 28, 2000 |

**Schedule B to the
IP Security Agreement -- Continued**

REGISTERED TRADE AND SERVICE MARKS

| Owner | Mark | Registration No. or Application Serial No. | Class(es) | Registration Date |
|-----------------------------------|---------------------|---|---|--------------------------|
| ITC^DeltaCom, Inc. | E^COM | Application Serial No. 76/010576 | 37 (computer installation and repair) 38 (telecommunications services, namely providing telecom-munications connections to a global computer network, telecom-munications gateway services) | Pending |
| ITC^DeltaCom, Inc. | E^DELTACOM | U.S. Registration No. 2,528,538 | 42 (leasing of computer facilities) 37 (computer installation and repair) 38 (telecommunications services, namely providing telecom-munications connections to a global computer network, telecom-munications gateway services) | January 8, 2002 |
| ITC^DeltaCom Communications, Inc. | EVERYBODY'S TALKING | (1) | 42 leasing of computer facilities 38 (local and long distance telephone service) | |
| ITC^DeltaCom Communications, Inc. | GRAPEVINE | (1) | 38 (local and long distance telephone service) | |

**Schedule B to the
IP Security Agreement -- Continued**

REGISTERED TRADE AND SERVICE MARKS

| Owner | Mark | Registration No. or Application Serial No. | Class(es) | Registration Date |
|---------------------------|-------------------------------|---|--|--------------------------|
| Interstate FiberNet, Inc. | SCIENTIFIC TELECOM (& Design) | U.S. Registration No. 1,348,561 | 38 (leasing of telephones and telephone systems) 37 (installation, repair and maintenance of telephones and telephone systems) | July 9, 1985 |
| Interstate FiberNet, Inc. | AVDATA | U.S. Registration No. 2,158,977 | 42 (distributorship services in the field of telephone and telephone systems) | May 19, 1998 |
| Interstate FiberNet, Inc. | AVDATA | U.S. Registration No. 2,202,649 | 37 (installation, maintenance and/or repair of computer networks and systems for others) 42 (network integration services; consultation and diagnostic services in the field of wide area network management) | November 10, 1998 |
| Interstate FiberNet, Inc. | AVDATA (& Design) | U.S. Registration No. 2,160,578 | 37 (installation, maintenance and/or repair of computer networks and systems for others) | May 26, 1998 |
| Interstate FiberNet, Inc. | AVDATA (& Design) | U.S. Registration No. 2,203,677 | 42 (network integration services; consultation and diagnostic services in the field of wide area network management) | November 17, 1998 |

**Schedule C to the
IP Security Agreement**

REGISTERED COPYRIGHTS

| Owner | Copyrighted Material | Registration No. | Registration Date |
|---------------------------|--|------------------------------|--------------------------|
| Interstate FiberNet, Inc. | Advanced wireless solutions | Registration No. TX4680412 | (2) |
| Interstate FiberNet, Inc. | Advanced enterprise solutions: AvData's levels of network management services. | Registration No. TX4643784 | (2) |
| Interstate FiberNet, Inc. | Frame relay: Know the right questions before making the investment. | Registration No. TX4583918 | (2) |
| Interstate FiberNet, Inc. | The NPCS Network Challenge | Registration No. TXTX4601538 | (2) |

(1) Intent-to-Use Applications for U.S. Registration to be filed
 (2) Acquired by merger of Interstate FiberNet, Inc. with AvData Systems in 1999