

12-17-2002



102313294

To the Honorable Commissioner of Pat

original documents or copy thereof.

1. Name of conveying party(ies):
Herzog Heine Geduld, Inc.

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

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

3. Nature of conveyance: 11-26-02
 Assignment Merger
 Security Agreement Change of Name
 Other

Execution Date:

2. Name and address of receiving party(ies)
Name: Merrill Lynch & Co., Inc.

Internal
Address: North Tower

Street Address: 4 World Financial Center

City: New York State: NY Zip: 10080

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

N/A

B. Trademark Registration No.(s)

1812420; 2460274; 2543287;
2449801; 2449803

Additional number(s) attached Yes No

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

Name: Patrick Romain

Internal Address: c/o Merrill Lynch & Co., Inc.

222 Broadway, 17th Floor

New York, NY 10038

Street Address: c/o Merrill Lynch & Co., Inc.

222 Broadway, 17th Floor

City: New York State: NY Zip: 10038

6. Total number of applications and registrations involved: 5

7. Total fee (37 CFR 3.41).....\$200.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

50-1096

(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.

Desirae Wells
Name of Person Signing

Desirae Wells
Signature

11/22/02
Date

Total number of pages including cover sheet, attachments, and document: 23

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

12/16/2002 TDIAZ1 0000051 501096 1812420

01 FC:AS21 40.00 CH
02 FC:AS21 100.00 CH

TRADEMARK
REEL: 002634 FRAME: 0714

SHAREHOLDER AGREEMENT

SHAREHOLDER AGREEMENT, dated June 6, 2000, among Merrill Lynch & Co., Inc., a Delaware corporation ("Purchaser"), MLIS Inc., a New York corporation and a wholly owned subsidiary of Purchaser ("Newco"), and the shareholders signatory hereto (the "Shareholders").

WHEREAS, as of the date of this Agreement, the Shareholders own (either beneficially or of record) the shares of common stock, par value \$.01 per share of Herzog, Heine, Geduld, Inc., a New York corporation (the "Company") set forth on Exhibit A hereto (all such shares of the Company together with shares of the Company hereafter acquired by the Shareholders prior to the termination of this Agreement being the "Shareholders' Shares");

WHEREAS, the Purchaser, Newco and the Company propose to enter into an Agreement and Plan of Merger, dated as of the date of this Agreement (as the same may be amended from time to time, the "Merger Agreement"), pursuant to which Purchaser is obligated, upon the terms and subject to the conditions thereof, to make an offer (the "Exchange Offer") to exchange common stock, par value \$1.33^{1/3} per share, of Purchaser ("Purchaser Common Stock") for all of the outstanding shares of common stock, par value \$.01 per share, of the Company ("Company Common Stock") and then, following the consummation of the Exchange Offer, to cause Newco to merge with and into the Company, with the Company being the surviving corporation of such merger (the "Merger"). As a result of the Merger, the surviving corporation will become a wholly owned subsidiary of Purchaser and all of the shares of Company Common Stock still outstanding after the Exchange Offer will be converted into the right to receive Purchaser Common Stock; and

WHEREAS, as a condition to the willingness of Newco and the Purchaser to enter into the Merger Agreement, Newco and the Purchaser have requested that the Shareholders agree, and, in order to induce Newco and the Purchaser to enter into the Merger Agreement, each Shareholder has agreed herein, to (i) tender such Shareholder's Shares into the Exchange Offer and (ii) vote such Shareholder's Shares in favor of the Merger, if applicable, and in favor of any other actions conducive to accomplishing the transactions provided for in the Merger Agreement, in each case upon the terms and conditions set forth below;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements and covenants set forth herein and in the Merger Agreement, the parties hereto agree as follows:

**ARTICLE I
THE EXCHANGE OFFER**

SECTION 1.01. Tender of the Shareholders' Shares Pursuant to the Exchange Offer. (a) Each Shareholder agrees to tender and sell (and not withdraw prior to termination or expiration of the Exchange Offer or the termination of the Merger Agreement) all (and not less than all) of such Shareholders' Shares, pursuant to and in accordance with the terms of the Exchange Offer, as it may be amended from time to time.

(b) Each Shareholder shall deliver a duly executed Letter of Transmittal in the form and substance contemplated by the Merger Agreement and Offer to Purchase as soon as practicable after the date upon which the offer is commenced and in any event prior to 20 business days after such date. The Transmittal Letter shall provide for, among other things, (i) the mechanism by which the Shareholders shall tender their shares in the Exchange Offer (specifying that risk of loss and title shall pass only upon delivery of the shares to the exchange agent), (ii) the appointment of a shareholder's representative (the agent of the Shareholders for all purposes under the Merger Agreement and related escrow agreement), (iii) an affirmation by each Shareholder that he is an "Accredited Investor" as defined in Regulation D of the Securities Act of 1933, as amended, and (iv) an acknowledgment by each Shareholder of his investment intent with respect to shares of Purchaser Common Stock and other matters arising under Regulation D.

**ARTICLE II
REPRESENTATIONS AND WARRANTIES OF
SHAREHOLDERS**

Each Shareholder hereby represents and warrants to the Purchaser and Newco as follows:

SECTION 2.01. Due Execution and Delivery: Enforceability. This Agreement has been duly executed and delivered by such Shareholder and, assuming its due authorization, execution and delivery by the Purchaser and Newco, constitutes a legal, valid and binding obligation of such Shareholder, enforceable against such Shareholder in accordance with its terms.

SECTION 2.02. No Conflicts: Required Filings and Consents. (a) The execution and delivery of this Agreement by such Shareholder do not, and the performance of this Agreement by such Shareholder will not, (i) conflict with or violate any law, rule, regulation, order, judgment or decree applicable to such Shareholder or by which such

Shareholder or any of such Shareholder's properties is bound or affected or (ii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under, or give to others any rights of termination, amendment, acceleration or cancellation of, or result in the creation of a lien or encumbrance on any of the property or assets of such Shareholder pursuant to, any note, mortgage, contract, agreement, lease, license, permit, or other instrument or obligation to which such Shareholder is a party or by which such Shareholder or any of such Shareholder's properties is bound or affected.

(b) The execution and delivery of this Agreement by such Shareholder do not, and the performance of this Agreement by such Shareholder will not, require any consent, approval, authorization or permit of, or filing with or notification to, any governmental or regulatory authority, domestic or foreign, except for applicable requirements, if any, of (i) the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder (the "Exchange Act") and (ii) the HSR Act.

SECTION 2.03. Title to Shares. Upon the consummation of the Offer, such Shareholder will deliver good and valid title to such Shareholder's Shares, free and clear of any pledge, lien, security interest, charge, claim, equity, option, proxy, voting restriction, right of first refusal or other limitation on disposition or encumbrance of any kind ("Liens"), other than pursuant to this Agreement. Such Shareholder has full right, power and authority to sell, transfer and deliver such Shareholder's Shares. Upon delivery of such Shareholder's Shares and payment of the purchase price therefor as specified in the Merger Agreement, the Purchaser will receive good, valid, marketable and freely transferable title to such Shareholder's Shares, free and clear of all Liens. Such Shareholder's Shares are set forth on Exhibit A hereto and are all the securities of the Company owned of record or beneficially by such Shareholder on the date of this Agreement.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF THE PURCHASER AND NEWCO

The Purchaser and Newco hereby represent and warrant to the Shareholders as follows:

SECTION 3.01. Due Organization, Etc. Each of the Purchaser and Newco is a corporation duly organized and validly existing under the laws of the jurisdiction of its incorporation. Each of the Purchaser and Newco has all necessary corporate power and authority to execute and deliver this Agreement and to consummate the transactions contemplated hereby. The execution and delivery of this Agreement and the consummation of the transactions contemplated hereby by the Purchaser and Newco have been duly authorized

by all necessary corporate action on the part of the Purchaser and Newco. This Agreement has been duly executed and delivered by the Purchaser and Newco and, assuming its due authorization, execution and delivery by each of the Shareholders, constitutes a legal, valid and binding obligation of the Purchaser and Newco, enforceable against the Purchaser and Newco in accordance with its terms.

SECTION 3.02. No Conflict: Required Filings and Consents. (a) The execution and delivery of this Agreement by the Purchaser and Newco do not, and the performance of this Agreement by the Purchaser and Newco will not, (i) conflict with or violate the Articles of Incorporation or By-laws or equivalent organizational documents of the Purchaser or Newco, (ii) conflict with or violate any law, rule, regulation, order, judgment or decree applicable to the Purchaser or Newco or by which the Purchaser or Newco or any of their properties is bound or affected, or (iii) result in any breach of or constitute a default (or an event that with notice or lapse of time or both would become a default) under any note, bond, mortgage, indenture, contract, agreement, lease, license, permit, franchise or other instrument or obligation to which the Purchaser or Newco is a party or by which they or any of their properties is bound or affected.

(b) The execution and delivery of this Agreement by the Purchaser and Newco do not, and the performance of this Agreement by the Purchaser and Newco will not, require any consent, approval, authorization or permit of, or filing with or notification to, any governmental or regulatory authority, domestic or foreign, except (i) for applicable requirements, if any, of the Exchange Act, (ii) the notification requirements of the HSR Act and (iii) the notification requirements pursuant to NASD Rule 1018.

ARTICLE IV TRANSFER AND VOTING OF SHARES

SECTION 4.01. Transfer of Shares. Each Shareholder hereby agrees that, during the period commencing on the date of this Agreement and ending on the first to occur of the Effective Time or the date on which the Merger Agreement is terminated (the "Term") and except as otherwise provided herein, such Shareholder shall not (a) sell, pledge, hypothecate or otherwise dispose of any of such Shareholder's Shares, or any options or warrants with respect thereto, (b) deposit such Shareholder's Shares, or any options or warrants with respect thereto, into a voting trust or enter into a voting agreement or arrangement with respect to such Shareholder's Shares or grant any proxy with respect thereto or (c) enter into any contract, option or other arrangement or undertaking with respect to the direct or indirect acquisition or sale, assignment, transfer or other disposition of any Shareholders' Shares (the actions described in clauses (a)-(c) being a Transfer); provided, however, that notwithstanding the foregoing clauses (a)-(c), a Shareholder may Transfer its

Shareholders' Shares provided that the prospective Transferee agrees in writing to be bound by the terms hereof.

SECTION 4.02. Voting of Shares; Further Assurances. (a) During the Term, each Shareholder, by this Agreement, does hereby constitute and appoint the Purchaser, or any nominee of the Purchaser, with full power of substitution, as such Shareholder's true and lawful attorney and proxy, for and in its name, place and stead, to vote each of such Shareholder's Shares as such Shareholder's proxy, at every annual, special or adjourned meeting of the shareholders of the Company (including the right to sign its name (as shareholder) to any consent, certificate or other document relating to the Company that New York Law may permit or require) (i) in favor of the adoption of the Merger Agreement and the Merger, if applicable and (ii) in favor of any other matter relating to consummation of the transactions contemplated by the Merger Agreement. Such Shareholder further agrees to cause such Shareholder's Shares to be voted in accordance with the foregoing. THIS PROXY AND POWER OF ATTORNEY IS IRREVOCABLE AND COUPLED WITH AN INTEREST. Such Shareholder acknowledges receipt and review of a copy of the Merger Agreement.

ARTICLE V GENERAL PROVISIONS

SECTION 5.01. Notices. All notices, requests, claims, demands and other communications hereunder shall be in writing and shall be given (and shall be deemed to have been duly given upon receipt) by delivery in person, by telecopy, by courier or by registered or certified mail (postage prepaid, return receipt requested) to the respective parties at the following addresses (or at such other address for a party as shall be specified in a notice given in accordance with this Section 5.01):

- (a) If to Purchaser or Newco:

Merrill Lynch & Co., Inc.
World Financial Center
North Tower
New York, NY 10004
Attention: Mark B. Goldfus
Fax: (212) 449-4518

with a copy to:

Shearman & Sterling
 599 Lexington Avenue
 New York, NY 10022
 Attention: John A. Marzulli, Jr., Esq.
 Fax: (212) 848-7179

(b) If to any Shareholder:

c/o Herzog, Heine, Geduld, Inc.
 525 Washington Blvd
 Jersey City, NJ 07310
 Attention: E. E. Buzzy Geduld
 Fax: 201-418-4905

with a copy to:

Fried Frank Harris Shriver & Jacobson
 One New York Plaza
 New York, NY 10004
 Attention: Charles Nathan
 Fax: 212-859-8587

SECTION 5.02. Headings. The descriptive headings contained in this Agreement are included for convenience of reference only and shall not affect in any way the meaning or interpretation of this Agreement.

SECTION 5.03. Severability. If any term or other provision of this Agreement is invalid, illegal or incapable of being enforced by any rule of law, or public policy, all other conditions and provisions of this Agreement shall nevertheless remain in full force and effect so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible to the fullest extent permitted by applicable law in an acceptable manner to the end that the transactions contemplated hereby are fulfilled to the extent possible.

SECTION 5.04. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior agreements and undertakings, both written and oral, among the parties, or any of them, with respect to the subject matter hereof.

SECTION 5.05. Assignment. This Agreement shall not be assigned by operation of law or otherwise, except that the Purchaser and Newco may assign any or all of their rights and obligations hereunder to any affiliate of the Purchaser.

SECTION 5.06. Parties in Interest. This Agreement shall be binding upon and inure solely to the benefit of each party hereto, and nothing in this Agreement, express or implied, is intended to or shall confer upon any person any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

SECTION 5.07. Specific Performance. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement was not performed in accordance with the terms hereof and that the parties shall be entitled to specific performance of the terms hereof, in addition to any other remedy at law or equity.

SECTION 5.08. Amendments. This Agreement may not be amended except by an instrument in writing signed by the Parent, the Purchaser and each Shareholder.

SECTION 5.09. Governing Law: Consent to Jurisdiction. Except to the extent that New York Law is mandatorily applicable to the voting of the Shareholder's Shares and the related proxy, this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York. All actions and proceedings arising out of or relating to this Agreement shall be heard and determined in any New York State or federal court sitting in the City and County of New York.

SECTION 5.10. Counterparts. This Agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, the parties (with respect to the Purchaser and Newco, by duly authorized officers thereof) have executed this Agreement as of the date first written above.

MERRILL LYNCH & CO., INC.

By Jerome P. Kenney
Name: Jerome P. Kenney
Title: Executive Vice President

MLIS INC.

By _____
Name:
Title:

Emanuel E. Geduld

Emanuel E. Geduld 1997 HHG Trust

Emanuel E. Geduld 2000 GRAT

John E. Herzog

NYDOCS02/521107

TRADEMARK

REEL: 002634 FRAME: 0722

IN WITNESS WHEREOF, the parties (with respect to the Purchaser and Newco, by duly authorized officers thereof) have executed this Agreement as of the date first written above.

MERRILL LYNCH & CO., INC.

By _____

Name:

Title:

MLIS INC.

By Thomas Joyce

Name: Thomas Joyce

Title: Chairman and President

Emanuel E. Geduld

Emanuel E. Geduld 1997 HHG Trust

John H. Herzog

John Herzog Family Trust

NYDOCS02/521107

7.0

JUN 25 1998 05:18PM MERRILL LYNCH EQUITIES

TRADEMARK

REEL: 002634 FRAME: 0723

IN WITNESS WHEREOF, the parties (with respect to the Purchaser and Newco, by duly authorized officers thereof) have executed this Agreement as of the date first written above.

MERRILL LYNCH & CO., INC.

By _____
Name:
Title:

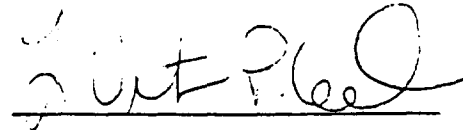
MLIS INC.

By _____
Name:
Title:

Emanuel E. Geduld



Emanuel E. Geduld 1997 HHG Trust



Emanuel E. Geduld 2000 GRAT



John E. Herzog

NYDOCS02/521107

IN WITNESS WHEREOF, the parties (with respect to the Purchaser and Newco, by duly authorized officers thereof) have executed this Agreement as of the date first written above.

MERRILL LYNCH & CO., INC.

By _____
Name:
Title:

MLIS INC.

By _____
Name:
Title:

Emanuel E. Geduld

Emanuel E. Geduld 1997 HHG Trust

Anthony Fasano

Emanuel E. Geduld 2000 GRAT

Anthony Fasano

John E. Herzog

NYDOCS02/521107

IN WITNESS WHEREOF, the parties (with respect to the Purchaser and Newco, by duly authorized officers thereof) have executed this Agreement as of the date first written above.

MERRILL LYNCH & CO., INC.

By _____
Name:
Title:

MLIS INC.

By _____
Name:
Title:

Emanuel E. Geduld

Emanuel E. Geduld 1997 HHG Trust



Emanuel E. Geduld 2000 GRAT



John E. Herzog

NYDOCS02/521107

TRADEMARK

REEL: 002634 FRAME: 0726

IN WITNESS WHEREOF, the parties (with respect to the Purchaser and Newco, by duly authorized officers thereof) have executed this Agreement as of the date first written above.

MERRILL LYNCH & CO., INC.

By _____
Name:
Title:

MLIS INC.

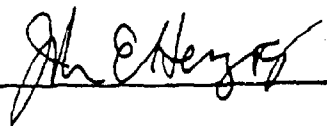
By _____
Name:
Title:

Emanuel E. Geduld

Emanuel E. Geduld 1997 HHG Trust

Emanuel E. Geduld 2000 GRAT

John E. Herzog



NYDOCS02/521107

TRADEMARK

REEL: 002634 FRAME: 0727

The 1997 John E. Herzog Family Trust

John E. Herzog

Herzog Business Holdings, L.P.

By: John E. Herzog
John E. Herzog, General Partner

Irwin Geduld

1997 Irwin Geduld Family Trust

2000 Irwin Geduld Grantor Retained
Annuity Trust I

2000 Irwin Geduld Grantor Retained
Annuity Trust II

The 1997 John E. Herzog Family Trust

*Nadene Lee, Managing Director
US Trust Company, Trustee*
Herzog Business Holdings, L.P.

By: _____
John E. Herzog, General Partner

Irwin Geduld

1997 Irwin Geduld Family Trust

2000 Irwin Geduld Grantor Retained
Annuity Trust I

2000 Irwin Geduld Grantor Retained
Annuity Trust II

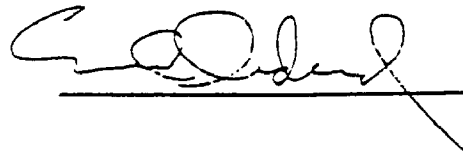
The 1997 John E. Herzog Family Trust

Herzog Business Holdings, L.P.

By: _____
John E. Herzog, General Partner

Irwin Geduld

1997 Irwin Geduld Family Trust



2000 Irwin Geduld Grantor Retained
Annuity Trust I

2000 Irwin Geduld Grantor Retained
Annuity Trust II

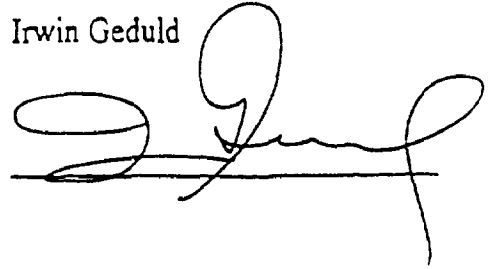
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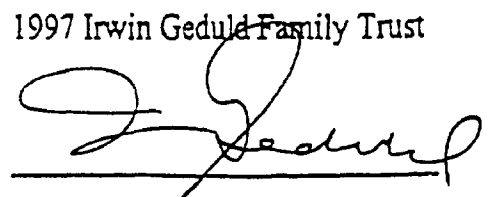
TRADEMARK

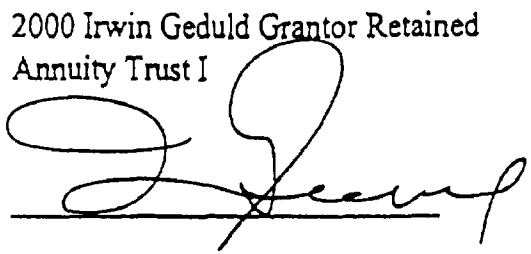
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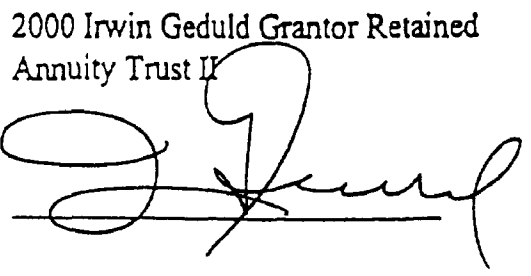
Herzog Business Holdings, L.P.

By: _____
John E. Herzog, General Partner

Irwin Geduld


1997 Irwin Geduld Family Trust


2000 Irwin Geduld Grantor Retained
Annuity Trust I


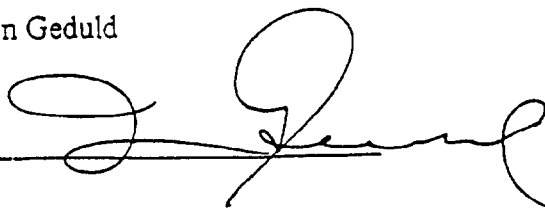
2000 Irwin Geduld Grantor Retained
Annuity Trust II


The 1997 John E. Herzog Family Trust

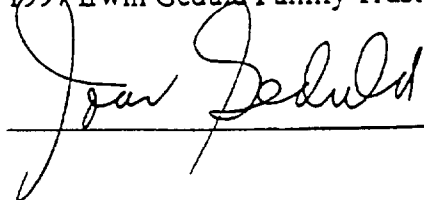
Herzog Business Holdings, L.P.

By: _____
John E. Herzog, General Partner

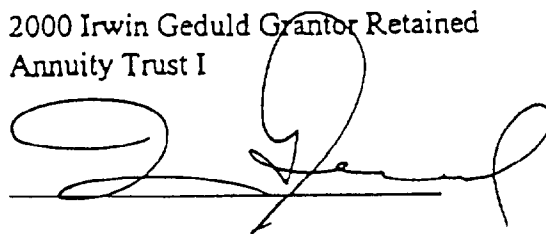
Irwin Geduld



1997 Irwin Geduld Family Trust



2000 Irwin Geduld Grantor Retained
Annuity Trust I



2000 Irwin Geduld Grantor Retained
Annuity Trust II

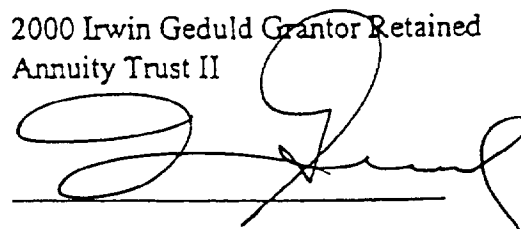


Exhibit A

Shareholder	Number of Shares Held Beneficially or of Record
Emanuel E. Geduld	17,420
Emanuel E. Geduld 1997 HHG Trust	220
Emanuel E. Geduld 200 GRAT	1,500
John H. Herzog	7,390*
John H. Herzog Family Trust	300
Herzog, Buiness Holdings, L.P.	*
Irwin Geduld	6,736
1997 Irwin Geduld Famitly Trust	362
2000 Irwin Geduld Grantor Retainer Annuity Trust I	661
2000 Irwin Geduld Grantor Retainer Annuity Trust I	661

*A portion or all of the 300 Class B Shares shown as belonging to John Herzog have been transferred either to Herzog Business Holdings L.P. (of which John Herzog is the general partner) or to a trust organized in May 2000 for the benefit of John Herzog and members of his immediate family.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Herzog, Heine, Geduld, Inc.

Application Serial No.:

Trademark:

SUBSTITUTE POWER OF ATTORNEY

S I R:

The undersigned hereby appoints Patrick Romain, Assistant Secretary, its attorney to prosecute the above application for registration with full power of substitution and revocation, to transact all business in the United States Patent and Trademark Office connected therewith and to receive the certificate; correspondence address: Patrick Romain, Assistant Secretary, Merrill Lynch & Co., Inc., 222 Broadway, 17th Floor, New York, New York 10038; telephone 212-670-0197; fax 212-670-4517.

Dated: 5/2/01 2001

By: 

Name: Charles Christofilis
Title: Senior Vice President and
General Counsel