

01-27-2003

ET

Docket No.:



-Y

Tab settings

102347569

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

1. Name of conveying party(ies):

GainsKeeper

1-21-03

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

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

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

Name: CCH Incorporated

Internal Address:

Street Address: 2700 Lake Cook Road

City: Riverwoods State: IL ZIP: 60015

- 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  No  
(Designations must be a separate document from Additional name(s) & address(es)  Yes  No

3. Nature of conveyance:

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

Execution Date: December 5, 2002

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2,530,361

Additional numbers  Yes  No

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

Name: Al Feder, CCH General Counsel

Internal Address:

Street Address: 2700 Lake Cook Road

City: Riverwoods State: IL ZIP: 60015

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

7. Total fee (37 CFR 3.41):.....\$ 40.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

01/24/2003 6TON11 00000068 2530361

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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.

By: BARBARA SMITH

Barbara Smith

1/16/03

Name of Person Signing

Signature

Date

Total number of pages including cover sheet, attachments, and

12

TRADEMARK

REEL: 002658 FRAME: 0610

## TRADEMARK ASSIGNMENT

This Trademark Assignment (the "Assignment"), dated as of December 5, 2002 by GainsKeeper, Inc., a Delaware corporation ("GainsKeeper"), to CCH Incorporated, a Delaware corporation ("CCH").

W I T N E S S E T H:

WHEREAS, GainsKeeper and CCH have entered into an Asset Purchase Agreement (the "Asset Purchase Agreement"), dated as of December 5, 2002 pursuant to which, among other things, GainsKeeper has agreed to sell and assign the Acquired Assets to CCH;

WHEREAS, in furtherance of, and subject to, the terms of the Asset Purchase Agreement, GainsKeeper desires to assign and transfer to CCH those trademarks, service marks, and federal and state registrations thereof set forth on Schedule A hereto (the "Marks");

WHEREAS, CCH desires to acquire the entire right, title, and interest in and to the Marks, including the right to recover for damages and profits derived or resulting from past infringement thereof; and

WHEREAS, except as otherwise provided herein, all capitalized terms contained and not defined herein (including the recitals hereto) shall have herein the respective meanings ascribed to them in the Asset Purchase Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, GainsKeeper, intending to be legally bound, hereby agrees as follows:

1. Assignment. GainsKeeper hereby contributes, grants, conveys, assigns, transfers and delivers to CCH all of GainsKeeper's right, title and interest in and to the Marks, including the right to recover for damages and profits for past infringement thereof, together with that part of the goodwill of the Business connected with and symbolized by the Marks.

2. Further Actions. From time to time after the date hereof, and without further consideration (subject, however, to CCH's reimbursement of GainsKeeper for any reasonable and documented fees or out-of-pocket expenses incurred in connection with GainsKeeper's compliance with this Section 2), GainsKeeper agrees to execute and deliver, at the request of CCH, all papers, instruments, and assignments, and to perform any other reasonable acts CCH may require in order to vest all of GainsKeeper's right, title and interest in and to the Marks in CCH and/or to provide evidence to support the foregoing in the event such evidence is deemed necessary by CCH, to the extent such evidence is in the possession or control of GainsKeeper.

3. Counterparts. Each copy of this Assignment which GainsKeeper signs to facilitate recording of the CCH's interest in the Rights shall be deemed an original.

4. Successors. This Assignment and all of the terms, covenants and provisions hereof shall inure to the benefit of CCH and its successors, assigns and representatives and shall be binding upon GainsKeeper and its successors and assigns.

5. Severability. Should any part or provision of this Assignment be held unenforceable or in conflict with the law of any jurisdiction, the validity of the remaining parts or provisions will not be affected by such holding.

6. Applicable Law. The validity and effect of this Assignment is governed by and construed in accordance with the laws of the State of New York, without regard to its conflict of laws provisions.

7. Waiver; Modification. No change or modification of this Assignment will be valid or binding on the parties, nor will waiver of any term or condition be deemed a waiver of any such term or condition in the future, unless such change or modification or waiver is in writing and signed by the parties.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, GainsKeeper has executed this Trademark Assignment as of the date first above written.

GAINSKEEPER, INC.

Attest:

By: Chadwick W. Cook  
Name: Chadwick W. Cook  
Title: President

By: Duncan S. Routh  
Name: Duncan S. Routh  
Title: Chief Executive Officer

SCHEDULE A

MARKS

Registered Trademarks

U.S. Service Mark Registration No. (2,530,361) issued January 15, 2002 for "GainsKeeper"

Unregistered Trademarks

GainsKeeper, Inc.

GK

GainsKeeper Institutional Services

GKIS

GainsTracker

GainsAdvisor

SellGrade

FundTax

GK for Advisors

GK Tax Pro

"Powering investors to better results"

"Keep your gains. Minimize your taxes. Preserve your sanity."

ASSET PURCHASE AGREEMENT

DATED AS OF DECEMBER 5, 2002

BY AND AMONG

CCH INCORPORATED,

GAINSKEEPER, INC.,

CHADWICK W. COOK,

AND

DUNCAN S. ROUTH

1.45 “Indemnified Party” shall have the meaning ascribed to such term in Section 7.02.

1.46 “Indemnitor” shall have the meaning ascribed to such term in Section 7.02.

1.47 “Initial Purchase Price” shall have the meaning ascribed to such term in Section 2.04.

1.48 “Intellectual Property” shall mean all intellectual property which is recognized under the law of any jurisdiction or anywhere in the world, whether under common law, by statute or otherwise, including, but not limited to, Intellectual Property included in or covered by an Intellectual Property Registration, and including but not limited to, the following:

(a) United States Letters Patent and patents granted in any other jurisdiction or anywhere in the world, reissues, divisions, continuations, continuations-in-part, reexaminations, renewals and substitutes thereof, foreign counterparts of the foregoing, term restorations or other extensions of the term of any issued or granted patents anywhere in the world and extensions of any issued or granted patent anywhere in the world for the limited purpose of extending the holder’s exclusive right to make, use or sell a particular product covered by such patent (such as supplemental protection certificates or the like);

(b) trade names, trademarks, service names, service marks, product names, brands, logos and other distinctive identifications used in commerce, whether in connection with products or services, and the goodwill associated with any of the foregoing;

(c) works of authorship, derivative works and other copyrightable works of any nature, and fixations of any of the foregoing;

(d) Software and fixations thereof, and all mask works;

(e) uniform resource locators, web site addresses, domain names, web site content and any all fixations thereof;

(f) Proprietary Information; and

(g) any other intangible property similar to any of the above.

1.49 “Intellectual Property Registration” shall mean an application (including provisional applications), certificate, filing, registration or other document seeking or conforming rights in Intellectual Property issued, filed with or recorded by any Governmental or Regulatory Authority in any jurisdiction anywhere in the world (including, in the case of patent applications, international or multi-national applications filed in accordance with Chapter I of the Patent Cooperation Treaty or any other multi-lateral agreement), including any and all amendments to any of the foregoing.

1.50 “Knowledge” means the actual knowledge of Cook, Routh and Cameron Routh.

ARTICLE II

PURCHASE AND SALE OF ASSETS; PURCHASE PRICE

2.01 Sale of the Acquired Assets.

(a) At the Closing, subject to the terms and conditions of this Agreement, the Seller shall sell, transfer, convey, assign and deliver to the Purchaser, and relinquish exclusively to the Purchaser in perpetuity, all of the Seller's right, title and interest in and to the Acquired Assets.

(b) Anything to the contrary herein notwithstanding, if any Contract which constitutes an Acquired Asset being acquired by the Purchaser hereunder by its terms is not assignable without the consent of the other party or parties thereto, such assignment shall be deemed effective only upon receipt of such consent. Each of the Seller and Purchaser agrees to use its reasonable efforts to assist and cooperate with the other party to obtain any such consents to assignment. With respect to each such Contract, after the Closing Date and until such time as such assignment has become effective, the Seller shall continue to deal with the other party or parties to such Contract as the prime contracting party and shall use its best efforts to obtain the consent of all required parties thereto to the assignment of such Contract after the Closing Date. The Purchaser shall perform at its sole expense all of the obligations of the Seller to be performed after the Closing Date under such Contract, the benefits of which the Purchaser is receiving after the Closing Date, and shall promptly reimburse the Seller for any required, reasonable expenses previously approved by the Purchaser incurred by the Seller on the Purchaser's behalf in connection with keeping such Contract in effect. Neither (a) the failure to obtain the consent to assignment of a Contract nor (b) any claim against Purchaser by a party to a Contract other than the Seller, based upon or arising from the failure to obtain such consent to assignment, shall be a breach of any representation, warranty or covenant by the Seller or the Key Persons under this Agreement or any Related Document.

(c) Subject to the obligations under the Contracts and to the Permitted Encumbrances, the Seller's right, title and interest in and to the Acquired Assets include, except as otherwise specifically disclosed in this Agreement, all rights pertaining to the Acquired Assets, including, but not limited to, the right to institute and prosecute all suits and proceedings and take all actions as may be necessary to collect, assert, or enforce any claim, right, or title of any kind in and to any and all of the Acquired Assets.

2.02 Excluded Assets. The following assets of the Seller shall not be acquired by the Purchaser and shall be deemed excluded assets (the "Excluded Assets"):

(a) all cash on hand and in banks, other cash items and equivalents of the Seller and all marketable securities;

(b) the Seller's corporate minute books and other books and records relating to internal corporate matters, any other books and records of the Seller not related to the Business



3.03 Deliveries by Seller. Subject to the terms and conditions of this Agreement, in reliance on the representations, warranties and agreements of the Purchaser contained in this Agreement, and in consideration of the Purchase Price, the Seller agrees to deliver at the Closing the following, all reasonably satisfactory in form and substance to the Purchaser and its legal counsel:

- (a) a duly executed bill of sale for the Acquired Assets, substantially in the form attached hereto as Exhibit A;
- (b) a duly executed assignment and assumption agreement necessary to transfer to the Purchaser the Contracts which are included in the Acquired Assets, substantially in the form attached hereto as Exhibit B (the "Assignment and Assumption Agreement");
- (c) all documents necessary to transfer to the Purchaser the registered domain names related to the Web Sites;
- (d) a duly executed trademark assignment necessary to evidence the transfer of the trademarks, trademark registrations listed on Schedule 5.13(i) and the goodwill associated therewith, substantially in the form attached hereto as Exhibit C;
- (e) [Intentionally Omitted];
- (f) a duly executed assignment and assumption agreement by and between Routh and the Purchaser for the Lease in the form attached hereto as Exhibit E (the "Lease Assignment and Assumption Agreement");
- (g) evidence reasonably satisfactory to the Purchaser that any and all liens on the Acquired Assets (other than the Permitted Encumbrances) have been released;
- (h) duly executed employment agreements for each of Cook and Routh in the forms attached as Exhibit F and G hereto (the "Employment Agreements");
- (i) [Intentionally Omitted]; and
- (j) all other deeds, endorsements, assignments and other instruments as, in the reasonable opinion of counsel for the Purchaser, are reasonably required to vest in the Purchaser all right, title and interest in and to any of the Acquired Assets.

3.04 Deliveries by Purchaser. Subject to the terms and conditions of this Agreement, in reliance on the representations, warranties and agreements of the Seller contained in this Agreement, and in consideration of the Acquired Assets, the Purchaser agrees to deliver to the Seller (or, in the case of documents to be delivered pursuant to Section 3.04(d), to Cook and Routh), at the Closing the following, all reasonably satisfactory in form and substance to the Seller and its legal counsel:

(g) With respect to the Programs:

(i) the Seller has delivered or made available to the Purchaser true and complete copies of all Software Documentation;

(ii) the Software Documentation (including the Source Code, system documentation, statements of principles of operation, and schematics as well as any pertinent commentary or explanation for all Programs) includes all information that may be necessary to render the Programs reasonably understandable and usable by a trained computer programmer and to support in all material respects all current and prior releases of the Programs;

(iii) the Programs and Software Documentation for the Programs includes all programs (including compilers, "workbenches," tools, and higher level or "proprietary" languages) used for the development, maintenance, and implementation of the Programs; and

(iv) each Program that is part of the Technology used in the Business performs substantially in accordance with the Software Documentation with respect to the most recent release for each such Program.

(h) Schedule 5.12(a) sets forth and identifies a true, complete and correct list of all Third-Party Licenses including, but not limited to, all licenses for Software used to create, modify, compile, operate or support the Programs. Except as set forth on Schedule 5.13(h) and Schedule 5.05, the Seller has all rights in the Technology and Intellectual Property necessary to conduct the Business as currently conducted by the Seller and such rights will not be adversely affected as a result of or in connection with the execution and delivery of this Agreement, the Closing or the consummation of any of the transactions contemplated hereby. Except as set forth on Schedule 5.13(h), the Seller has made any and all payments required to be made pursuant to, or in connection with, its rights under the Third-Party Licenses and is not otherwise violating or in breach of the Third-Party Licenses. Except for Non-Owned Intellectual Property, the Programs contain no programming or materials in which any third party may claim superior, joint or common ownership.

(i) Schedule 5.13(i) sets forth a true, complete and correct list of all Intellectual Property Registrations of the Seller. All statements and representations made by the Seller in any Intellectual Property Registration were true in all material respects as of the time they were made. To the extent required by applicable law, if such statements or representations ceased to be true after such Intellectual Property Registration was filed or issued, appropriate amendments were timely filed by the Seller to correct such statements or representations. Except as specifically set forth on Schedule 5.13(i), (i) no Intellectual Property Registration related to the Business has lapsed, expired or been abandoned, surrendered or canceled, or is subject to any injunction, judgment, order, decree, ruling or charge or is subject to any pending or threatened oppositions, cancellations, interferences or other proceedings before the United States Patent and Trademark Office, the Trademark Trials and Appeals Board, the United States Copyright Office

or in any other court or administrative body of competent jurisdiction in any country anywhere in the world and (ii) all filing fees, maintenance fees, examination fees, taxes, proofs of use and other administrative requirements necessary or desirable to have been paid or done in order to obtain or maintain Intellectual Property Registration related to the Business have been paid or done and there are no fees or taxes required to be paid, or actions required to be taken, within 90 days after the Closing Date;

(j) Except as set forth on Schedule 5.13(j), all Customer Contracts constitute end-user agreements only, each of which grants the end user thereunder only the nonexclusive right and license to receive the specified Services and use the specified Programs for the end user's internal purposes only.

(k) Except as set forth on Schedule 5.13(k), there are no Contracts with respect to the marketing, distribution, licensing, or promotion of any Services or Programs, Technology or any other Intellectual Property of the Seller, by any independent salesperson, distributor, sublicensor, or other remarketer or sales organization.

(l) Except as set forth on Schedule 5.13(l), the Seller is in possession and control of all copies of the Source Code for the Programs and, to Knowledge, the Source Code for the Programs has never been publicly disclosed or otherwise been the subject of an unauthorized disclosure. The Seller does not have, nor has it ever had, any copies of Source Code for any of the Programs at any locations other than those locations set forth on Schedule 5.13(l) hereto.

(m) The Programs conform in all material respects to the functional requirements, design specifications, documentation and other specifications (if any) referred to or contained in the Software Documentation, and will perform substantially in accordance with the foregoing.

(n) The Seller has taken commercially reasonable actions to protect against the existence of (i) any protective, encryption, security or lock-out devices which might in any way interrupt, discontinue or otherwise adversely affect the Programs or Technology of the Seller or the Purchaser's use thereof; and (ii) any so-called computer viruses, worms, trap or back doors, trojan horses or other instructions, codes, programs, data or materials which could improperly, wrongfully and/or without the authorization of the Purchaser, interfere with the operation or use of the Programs or Technology of the Seller.

(o) From the date on which the Seller developed or acquired each item of Technology or Proprietary Information which was considered confidential at the time of such development or acquisition through the date hereof, the Seller has taken all reasonable actions to maintain such items of Technology and Proprietary Information as confidential, to protect against the loss, theft or unauthorized use of such item of confidential Technology or Proprietary Information, and to protect and preserve the confidentiality of all such confidential Technology and Proprietary Information. To Knowledge, all use, disclosure or appropriation of such Technology or Proprietary Information of the Seller by or to a third party has been pursuant to the terms of an agreement between the Seller and such third party. All use, disclosure or

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered in New York, New York, all on the day and year first above written.

**PURCHASER:**

CCH INCORPORATED

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

Bruce C. Lenz  
Secretary

**SELLER:**

GAINSKEEPER, INC.

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

Name: Duncan S. Routh  
Title: Chief Executive Officer

**KEY PERSONS:**

\_\_\_\_\_  
Chadwick W. Cook, individually

\_\_\_\_\_  
Duncan S. Routh, individually