

06-23-2003



Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005)

102479870 TRADEMARKS ONLY

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

Tab settings

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

1. Name of conveying party(ies):

6-17-03

DIAMOND MULTIMEDIA SYSTEMS INC.

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

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

3. Nature of conveyance:

- Assignment (checked), Merger, Security Agreement, Change of Name, Other: Amendment to Assignment 05/12/2000 (checked)

Execution Date: 11/19/1999

2. Name and address of receiving party(ies)

Name: MONSTER CABLE PRODUCTS, INC.

Internal

Address:

Street Address: 455 Valley Drive

City: Brisbane State: CA Zip: 94005

- Individual(s) citizenship, Association, General Partnership, Limited Partnership, Corporation-State: Delaware (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) 75/157,718 and 75/523,989

B. Trademark Registration No.(s)

Additional number(s) attached Yes No

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

Name: F. David LaRiviere

Internal Address: LaRiviere, Grubman & Payne LLP

P.O. Box 3140

Street Address: One Lower Ragsdale Drive,

Building 1, Suite 130

City: Monterey State: CA Zip: 93942

6. Total number of applications and registrations involved:

2

7. Total fee (37 CFR 3.41): \$ 80.00

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

8. Deposit account number:

9. Signature.

40.00 OP 25.00 OP

F. David LaRiviere Name of Person Signing

Signature

6/17/2003

Date

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

15

06/20/2003 DBYRNE 00000061 75157718

01 FC:0521 02 FC:0522

DO NOT USE THIS SPACE

Refund Ref: 06/20/2003 DBYRNE 0000128322

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

CHECK Refund Total: \$15.00

TRADEMARK REEL: 002760 FRAME: 0515

**AMENDMENT NO. 1 TO
ASSIGNMENT AND TRADEMARK RIGHTS LICENSING AGREEMENT**

This Amendment No 1 (the "Amendment") to the Assignment and Trademark Rights Licensing Agreement between the parties dated November 8, 1999 (the "Agreement") is made as of December 21, 1999 by and among Monster Cable Products, Inc., a California corporation located at 455 Valley Drive, Brisbane, California 94055-1208 ("Monster"), S3 Incorporated, a Delaware corporation located at 2841 Mission College Blvd, Santa Clara 95054 ("S3"), and Diamond Multimedia Systems, Inc., a Delaware corporation having its principal place of business at 2880 Junction Avenue, San Jose California 95134 (Diamond") (also collectively referred to as "Diamond").

In consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Amendments to the Agreement.

The Agreement is hereby amended as set forth herein:

(a) Section 2.1. Trademark License; Approved Use. Subject to the terms and conditions set forth herein, Monster hereby grants to Diamond a non-exclusive, non transferable, royalty-free worldwide right (with no right to sublicense) to use the Contested Marks as directed by Monster from time to time in connection with the manufacture, marketing, distribution or advertising of Diamond Products. In using the Contested Marks, Diamond shall at all times comply with the directions which Monster shall reasonably give in this regard, and Diamond shall ensure that all uses of the Contested Marks identify Monster by appropriate symbol or designation as the owner of such Contested Marks (and the status of such ownership as being registered or not) in its sales and trade literature, and product packaging. Diamond agrees to maintain a certain standard of quality control substantially equivalent to Monster Style for all Diamond Products bearing the Contested Marks. Failure to maintain such quality control standard shall be a material breach of this Agreement. Upon written notice by Monster, use of the Contested Marks by Diamond shall thereafter be subject to Monster's prior review and approval.

(b) Section 2.2. Diamond agrees to use the Contested Marks only in connection with Diamond Products as set forth herein attached hereto and incorporated herein. Except as otherwise provided herein, any use of the Contested Marks or any other mark in combination with the mark "Monster" shall be a material breach of this Agreement.

(c) Section 7.2(a). Termination for Cause; Automatic Termination. Monster may terminate this Agreement upon thirty (30) days written notice to Diamond following any material breach or omission by Diamond with respect to any term, representation, warranty, condition, or covenant hereof and (b) the failure of Diamond to cure such breach or omission prior to the expiration of such 30-day period. Diamond may terminate this Agreement upon thirty (30) days notice to Monster; provided that if the total amount of royalty payments accrued to Monster under this Agreement (the total of both paid and outstanding payments, hereinafter "Accrued Royalties") is less than \$500,000, then Diamond shall pay to Monster the difference between the Accrued

Royalties and \$500,000 within thirty days after such Diamond termination. This Agreement shall terminate automatically if (i) a receiver is appointed for either party or its property; (ii) either party makes an assignment for the benefit of its creditors; (iii) any proceedings are commenced by, for or against a party under any bankruptcy, insolvency or debtor's relief law; or (iv) either party is liquidated or dissolved.

2. **No Other Changes: Defined Terms.**

Except as otherwise set forth in this Amendment No. 1 and except as required to make the terms of the Agreement consistent with the amendment made hereby, all of the terms and conditions and conditions of the Agreement shall be unchanged and shall continue in full force and effect in accordance with the terms thereof. Capitalized terms in this Amendment shall have the meanings defined in the Agreement unless otherwise defined herein.

IN WITNESS WHEREOF, the parties have executed this Amendment by their duly authorized representatives.

MONSTER CABLE PRODUCTS:

DIAMOND MULTIMEDIA SYSTEMS INC:

By: Irene Baran

By: Walter Amaral

Name: Irene Baran

Name: Walter Amaral

Title: Vice President

Title: Senior V.P., Finance and C.F.O.

Date: 3-27-00

Date: 5-12-00

S3 INCORPORATED:

By: Walter Amaral

Name: Walter Amaral

Title: Senior V.P., Finance and C.F.O.

Date: 5-12-00

ASSIGNMENT AND TRADEMARK RIGHTS LICENSING AGREEMENT

This Assignment and Trademark Rights Licensing Agreement (the "Agreement") is entered into as of the 8th day of November, 1999 (the "Effective Date") by and among Monster Cable Products, Inc., a California corporation located at 455 Valley Drive, Brisbane, California 94055-1208 ("Monster"), S3 Incorporated, a Delaware corporation located at 2841 Mission College Blvd, Santa Clara 95054 ("S3"), and Diamond Multimedia Systems, Inc., a Delaware corporation having its principal place of business at 2880 Junction Avenue, San Jose California 95134 (Diamond") (also collectively referred to as "Diamond").

WHEREAS, Monster is in the business of selling cable and cable connection devices, parts, and computer accessories, and owns all right, title and interest in, to and under the "Monster" trademark and formatives thereof (the "Monster Marks");

WHEREAS, Diamond is in the business of selling computer peripheral hardware devices using the name "Monster" under an informal letter agreement with Monster executed by the parties dated February 28, 1997 (the "Informal Agreement");

WHEREAS, Diamond has registered, has pending applications or has any right in and to the marks "Monster 3D", "Monster Sound" "Monster Shades" and "Monster Fusion" in the United States and certain other countries (collectively, the "Contested Marks"), and Diamond agrees to assign such Contested Marks to Monster pursuant to the terms and conditions of this Agreement;

WHEREAS, Monster and Diamond wish to enter into a licensing agreement which will supercede the Informal Agreement and any and all other agreements that may exist between the parties relating to the subject matter of this Agreement, and which would grant Diamond a limited right to use the Contested Marks for the purpose of such use, marketing activities and distribution;

NOW THEREFORE, in consideration of the above recitals and the mutual covenants and obligations contained in this Agreement, and for good and valuable consideration, the sufficiency and adequacy of which is hereby acknowledged, the parties hereto agree as follows:

1. Definitions.

"Contested Marks" means pending or registered marks as set forth in the Preamble.

"Diamond Product" or "Products", individually or collectively, means personal computer add-in cards, including graphics and audio cards, and systems cards, including motherboards and 3D glasses used in conjunction with computer games.

"Monster Product" or "Products" individually or collectively, means any product produced by Monster, including but not limited to the Monster Sound Card Cable and the Monster 3D Video Card Cable.

"Monster Style" means, collectively, the manner in which any improvements, works or products, tangible or intangible, including but not limited to new ideas not yet reduced to

product form, whether developed by Monster or furnished to Monster by a third party, which incorporate know-how, design, ingredients, samples, processes, shape, color, texture, construction, look and feel, and trade dress, which are used or being developed by Monster in its products or services, in accordance with Monster's standards of quality.

2. Assignment and Grant of License; Product Marketing.

2.1 Trademark License; Approved Use. Subject to the terms and conditions set forth herein, Monster hereby grants to Diamond a non-exclusive, non transferable, (with no right to sublicense) to use the Contested Marks as directed by Monster from time to time in connection with the manufacture, marketing, distribution or advertising of Diamond Products. In using the Contested Marks, Diamond shall at all times comply with the directions which Monster shall give in this regard, and Diamond shall ensure that all uses of the Contested Marks identify Monster by appropriate symbol or designation as the registered owner of such Contested Marks in its sales and trade literature, and product packaging. Diamond agrees to maintain a certain standard of quality control substantially equivalent to Monster Style for all Diamond Products bearing the Contested Marks. Failure to maintain such quality control standard shall be a material breach of this Agreement. Upon written notice by Monster, use of the Contested Marks by Diamond shall thereafter be subject to Monster's prior review and approval.

2.2 Restrictions on Use. Diamond agrees to use the Contested Marks only in connection with personal computer add-in cards, including graphics and audio cards, and computer systems cards, including motherboards, as set forth in Exhibit A attached hereto and incorporated herein. Except as otherwise provided herein, any use of the Contested Marks or any other mark in combination with the mark "Monster" shall be a material breach of this Agreement.

2.3 Assignment of Contested Marks. In consideration of the license granted in Section 2.1 above, Diamond hereby sells, conveys, relinquishes, assigns and transfers exclusively to Monster (including Monster's successors and assigns), in perpetuity (or for the longest period of time otherwise permitted by law) all of Diamond's right, title and interest in and to the Contested Marks, and all goodwill arising therefrom. Diamond further transfers and assigns the right to file for and obtain registrations of the Contested Marks anywhere in the world, the right to common law trademarks, service marks, and applications for registrations thereof, together with all other trademark or service mark interests accruing by reason of international trademark conventions, including the rights of action, settlement, release, and claims for damages and benefits arising because of any infringements. Monster shall also have the right to base priority on Diamond's first date of use or on any application and/or registration being assigned herein.

a. Registration Cooperation. At Monster's request and expense, Diamond shall execute, or cause to be executed, and deliver such instruments and take such other action as may be requested by Monster to perfect or protect Monster's rights in the Contested Marks and to carry out the assignment contemplated in this Section 2.3. In this regard, Diamond agrees to cooperate with Monster in the filing and prosecution of any trademark registration or application that Monster may elect to file respecting the Contested Marks. Monster agrees that it will reimburse Diamond upon invoice for any reasonable time spent by Diamond employees in

connection with the foregoing. Diamond agrees not do anything inconsistent with such ownership or which would in any way impair or tend to lessen any part of such ownership, and will not in any manner represent that it has ownership in the Contested Marks or the Monster Marks. This license shall not give Diamond any right, title or interest in or to the Contested Marks or the goodwill represented thereto except in accordance with the terms, conditions and limitations set forth herein.

b. Prior Notice of any Trademark Registration Incorporating "Monster".

Diamond agrees to give Monster prior notice in the event Diamond wishes to use and/or register any trademark incorporating the word "Monster". Diamond agrees not to register in any country any name or mark resembling or confusingly similar to the Contested Marks or the Monster Marks. If any application for registration is or has been filed in any country by Diamond which relates to any name or mark which, in the reasonable opinion of Monster, is confusingly similar, deceptive or misleading with respect to the Contested Marks or the Monster Marks, Diamond shall immediately abandon any such application or registration, or, at Monster's sole discretion, assign it to Monster, provided that Monster shall reimburse Diamond for actual costs and expenses of any opposition, cancellation or related legal proceeding, including attorney fees, whether instigated by Monster or its authorized representative, incurred in connection with such application or registration. Diamond's breach of any provisions of this Section 2.3(b) shall be a material breach of this Agreement.

c. Waiver of Other Rights. To the extent Diamond may acquire any proprietary rights in the Contested Marks, including without limitation any moral rights, which are not by law permitted to be assigned, Diamond hereby waives such rights in favor of Monster.

2.4 Web Site Marketing. Diamond agrees to provide a mutually acceptable hypertext or other appropriate link to the Diamond web site prominently placed within the user interface of the Diamond domain for the purpose of advertising the Monster Products. Diamond agrees to place additional links to Diamond's other domains as reasonably requested by Monster. Upon termination of this Agreement, the parties agree that such link shall be immediately removed from the Diamond web site. Diamond further agrees to offer Monster Products through its online store, on mutually acceptable terms and conditions.

2.5 In-Box or Electronic Literature. Diamond agrees to insert coupons and such other product literature, in hard copy or electronic form as furnished by Monster, into boxes of Diamond Products shipped by Diamond from the Effective Date until termination of the Agreement. Diamond's obligation to include such coupons and literature into Diamond Product boxes is subject to Monster providing adequate quantities of same to Diamond at their product packaging location. All coupons and literature provided to Diamond by Monster shall be furnished at Monster's sole expense.

2.7 No Property Rights. It is specifically understood and agreed by Diamond that this Agreement does not confer upon Diamond any property rights in and to the Contested Marks or the Monster Marks and the goodwill in connection therewith, and that upon expiration or termination of this Agreement for any reason whatsoever any and all rights to use the Monster Marks and Contested Marks shall automatically cease and that Diamond shall from that time on refrain from using Monster Marks or the Contested Marks.

3. Compensation.

3.1 Royalty Payments. In consideration of the rights and licenses granted by Monster hereunder, Diamond agrees to assign all right, title and interest in and to the Contested marks as specified in Section 2.3 for past use of the Contested marks from October 1998 to the Effective Date. Diamond further agrees to pay Monster a royalty of Twenty-Five Thousand United States Dollars (US\$25,000) per calendar quarter for the continuing use of the Contested Marks within thirty (30) days after the end of every calendar quarter. Such royalty payments shall begin to accrue on the first calendar quarter following the Effective Date, and shall continue to accrue on a quarterly basis until the amount of such royalties Diamond has paid to Monster equals the sum of Five Hundred Thousand Dollars (US\$500,000.00). There will be no further royalties owing to Monster relating to the Contested Marks hereunder after such Five Hundred Thousand Dollar (US\$500,000.00) payment has been paid in its entirety to Monster. Breach of the provisions of this Section 3.1 shall constitute a material breach.

3.2 Purchase of Monster Products for Diamond Online Store. In the event that Diamond agrees to purchase Monster Products for sale on its online store, the parties may renegotiate the royalty rate set forth in Section 3.1 above.

4. Obligations of Diamond.

4.1 Expenses. All expenses incurred by Diamond in the operation of its business and the marketing, distribution and sale of Diamond Products bearing the Contested Marks shall be the sole responsibility of Diamond.

4.2 Notification. Diamond shall give Monster sufficient prior notice of any proposed or actual use of a trademark or service mark in combination with the "Monster" mark as set forth in Section 2.3(b).

5. Diamond Representations. Diamond represents the following:

5.1 Marketing Practices. In promoting Diamond Products bearing the Contested Marks, Diamond agrees to market and distribute such Diamond Products in a manner that is consistent with Monster's name and reputation. Diamond shall avoid trade practices, the use of advertising material, and/or sales policies which are in any manner injurious to Monster, its name or goodwill or detrimental to Monster's interest, or to which Monster reasonably objects in writing as being detrimental or injurious to it, its reputation, name or goodwill, including but not limited to making representations, warranties or guarantees to customers or to the trade with respect to the quality or characteristics of the Monster Products that are inconsistent with the literature provided by Monster.

5.2 Warranties and Guarantees. To make no warranty, guarantee or representation, whether written or oral, on Monster's behalf, except as authorized in writing by Monster.

5.3 Compliance with Law. Diamond shall comply with all applicable international, national, state, regional and local laws and regulations in performing its duties hereunder and in any of its dealing with customers and retailers with respect to the Diamond Products bearing

the Contested Marks.

5.4 Right to Enter Into Agreement. During the term of this Agreement, Diamond has the right to enter into this Agreement and perform all of its obligations hereunder, and doing so will not conflict with the rights of any third party.

6. **Monster Representations.** Monster represents the following:

6.1 Right to Grant Licenses. During the term of this Agreement, Monster owns, or has a license or assignment to, all of the intellectual property rights in the Monster Marks, Contested Marks and related marketing materials licensed hereunder, including but not limited to copyrights, patents, trademark and trade name rights, and trade secret rights which are necessary to grant and exploit the licenses herein and to perform its obligations under this Agreement.

6.2 Right to Enter Into Agreement. During the term of this Agreement, Monster has the right to enter into this Agreement and perform all of its obligations hereunder, and doing so will not conflict with the rights of any third party.

7. **Term and Termination.**

7.1 Term. This Agreement shall remain in effect unless otherwise terminated as provided herein.

7.2 Termination.

a. Termination for Cause: Automatic Termination. Monster may terminate this Agreement upon thirty (30) days written notice to Diamond following any material breach or omission by Diamond with respect to any term, representation, warranty, condition, or covenant hereof and (b) the failure of Diamond to cure such breach or omission prior to the expiration of such 30-day period. This Agreement shall terminate automatically if (i) a receiver is appointed for either party or its property; (ii) Either party makes an assignment for the benefit of its creditors; (iii) any proceedings are commenced by, for or against a party under any bankruptcy, insolvency or debtor's relief law; or (iv) Either party is liquidated or dissolved.

7.3 Effect of Termination. Upon termination of this Agreement: (i) Diamond will cease to use any Contested Marks or Monster Marks in connection with promotion, distribution, sale or advertising of Diamond Products or otherwise; (ii) the due date of all outstanding payments due Monster or which will become due subsequent to the date of termination will automatically be accelerated so that they become due and payable on the effective date of termination, even if longer terms had been provided previously.

8. **Diamond's Obligations Upon Termination.**

Existing Obligations. Upon termination, Diamond shall remain obligated (i) to pay any monies due or which become due as of or subsequent to the date of termination and (ii) to perform any other obligation provided for in this Agreement which is to be performed after the

date of termination.

9. Survival.

Monster's rights and Diamond's obligations to pay Monster all amounts due hereunder, as well as all other terms that continue by their nature shall survive the expiration or termination, for any reason, of this Agreement.

10. Agreement Terms Confidential.

Neither party shall disclose the terms of this Agreement to any third party except as required by law or as reasonably required to protect or enforce a party's rights hereunder. The disclosing party shall provide the other with prior written notice of any such required disclosure in order to afford the other party an opportunity to seek a protective order.

11. Notice and Defense of Third-Party Infringement Claims.

11.1 Diamond and Monster shall each provide the other with prompt notice of any claim or action arising out of or related to the use of the Contested Marks on the Diamond Products of which they become aware. Monster shall be responsible and bear the expense for defending against any claims alleging trademark infringement, but Diamond, upon Monster's request, shall provide Monster with reasonably requested assistance and documents in the defense of such claim, and Monster shall reimburse Diamond for reasonable out-of-pocket expenses incurred in providing such assistance. Diamond may at its option, participate in the defense of such claims at its own expense, with counsel of its choice. Except with regard to claims for infringement that are defended by Monster, any claims, expenses, losses, damages, or judgments (including attorney's fees) involving the use by Diamond of the Contested Marks on the Diamond Products shall be the sole responsibility of Diamond without any claim over against Monster for all or any portion thereof. Monster shall provide Diamond with reasonably requested assistance and documents in the defense of such claims, and Diamond shall reimburse Monster for reasonable out-of-pocket expenses incurred in providing such assistance. Diamond shall obtain Monster's approval before entering into any compromise, settlement or stipulation regarding any claims, which approval Monster shall not unreasonably withhold.

11.2 Diamond Right to Defend Infringement Claims. In the event Monster does not, within a reasonable period (having due regard for the protection of the Contested Marks) and after written notice by Diamond, defend against a claim alleging trademark infringement involving the use by Diamond of the Contested Marks on the Diamond Products, Diamond shall have the right, but shall not be obligated, to defend such claim. Any expenses, losses, damages, or judgments (including attorney's fees) in connection with such claims defended by Diamond shall be shared between the parties. If Diamond elects to defend such alleged infringement, Diamond shall secure Monster's approval before entering into any compromise, settlement, or stipulation with respect to such proceeding, which approval Monster shall not unreasonably withhold.

12. Indemnification.

Diamond shall defend, indemnify and hold harmless Monster, its subsidiaries and affiliates, and their respective successors and assigns from all losses, costs, liabilities, damages,

11/18/99

claims, and expenses of every kind and description, including reasonable attorney's fees, arising out of or resulting from any act or omission of Diamond or any affiliate, subsidiary or subcontractor relating to the production, distribution, use, or marketing of any of the Diamond Products bearing the Contested Marks, including, but not limited to: (1) unfair or fraudulent advertising claims, warranty claims, and product defect or liability claims pertaining to the Diamond Products; and (2) claims for unauthorized use or misuse of any patent, trademark, copyright, or other proprietary right owned, used or controlled by any third party pertaining to the production, distribution, use, or marketing of the Diamond Products. This provision 12(2) shall not apply to the Contested Marks.

13. Miscellaneous.

13.1 Injunctive Relief. Diamond acknowledges that the breach or threatened breach of material terms in this Agreement would cause irreparable injury to Monster, or cause impairment or dilution of its rights that could not be adequately compensated by money damages. Accordingly, in the event of material breach of the terms and conditions of this Agreement by Diamond, Monster may seek and obtain a restraining order and/or injunction prohibiting such actual or threatened material breach, without the need to prove damages or losses, or posting bond, in addition to any other legal or equitable remedies that may be available to it.

13.2 Relationship of the Parties. The relationship between Monster and Diamond is, and during the term of this Agreement shall be, solely that of licensor and licensee, with Diamond being an independent contractor. Diamond will not have, and will not represent that it has, any power, right or authority to bind Monster, or to assume or create any obligation or responsibility express or implied, on behalf of Monster or in Monster's name, except as herein expressly provided. Nothing stated in this Agreement shall be construed as making partners of Diamond and Monster, nor as creating the relationships of employer/employee, franchiser/franchisees, or principal/agent between the parties. In all matters relating to this agreement, neither Diamond nor its employees or agents are, or shall act as, employees of Monster within the meaning or application of any obligations or liabilities to Monster by reason of an employment relationship.

13.3 Waiver and Modification. No waiver or modification of the Agreement shall be effective unless in writing and signed by the party against whom such waiver or modification is asserted. Waiver by either party in any instance of any breach of any term or condition of this Agreement shall not be construed as a waiver of any subsequent breach of the same or any other term or condition hereof. None of the terms or conditions of this Agreement shall be deemed to have been waived by course of dealing or trade usage.

13.4 Notices. Notices required or permitted to be given hereunder to either party shall be delivered to them at the address set forth on Preamble hereof unless and until otherwise directed in writing by the recipient party. Notices will be deemed given when communicated in electronically or by facsimile if receipt is verifiable, or in writing if mailed or delivered return receipt requested at the party's address. A party shall have the right to modify its address upon subsequent written notice as provided herein.

13.5 Choice of Law; Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the United States and the State of California without

regard to internal conflict of laws rules. The parties agree that any claim asserted in any legal proceeding by one party against the other shall be commenced and maintained in the United States District Court for the Northern District of California, the Superior Court of the State of California for the County of San Mateo and any mutually agreed to alternative dispute resolution proceeding shall take place in San Mateo County, California.

13.6 Severability. In the event that any provision of this Agreement shall be held by a court or other tribunal of competent jurisdiction to be unenforceable, such provision will be enforced to the maximum extent permissible and the remaining portions of this Agreement shall remain in full force and effect.

13.7 Assignment. Diamond may not assign or delegate its duties hereunder to a third party without the prior written consent of Monster which may be withheld for any reason, and any attempted assignment or delegation without the required consent shall be void. Diamond's interest in this Agreement may not be transferred or assigned by operation of law. However, Diamond may assign or delegate its interest in this Agreement to a subsidiary or entity controlling, controlled by or under common control with Diamond. Subject to the above limitation, this Agreement will inure to the benefit and be binding upon the parties, their successors, and permitted assigns. Unless otherwise specifically agreed to by the non-assigning party, no assignment by either party shall relieve the assignor from its obligations pursuant to this Agreement.

13.8 Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter hereof, and supersedes in their entirety any and all written or oral agreement previously existing between the parties with respect to such subject matter.

13.9 Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but which collectively will constitute one and the same instrument.

13.10 Headings of No Effect. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives: on the date and time specified above.

MONSTER CABLE PRODUCTS:

DIAMOND MULTIMEDIA SYSTEMS INC:

By: Irene Baran
Name: Irene Baran
Title: V.P.
Date: 11-18-99

By: Walter D. Amaral
Name: Walter D. Amaral
Title: Sr. V.P. Finance & CFO
Date: 11/19/99

S3 INCORPORATED:

By: Walter D. Amaral
Name: Walter D. Amaral
Title: Sr. V.P. Finance & CFO
Date: 11/19/99

11/19/99 FRI 12:51 FAX 408 980 5429

S3 FINANCE

013

11/18/99 14:35 831 64 8835

LaRiviereGrubman S3 FINANCE

415-468-8284 MONSTER CABLE

039 P13

NOV 18 '99 13:54

EXHIBIT A

PRODUCTS USING CONTESTED MARKS

*Attachment 1 to
the Exhibit*

COMBINO MULTIMEDIA SYSTEMS, INC. - TRADEMARK INFORMATION MONSTER

TW	COUNTRY	SERIAL/REG NO.	REG DATE	INTL CLASS	DESCRIPTION	STATUS
MONSTER 3D	Australia	368363K	10/6/88	9	Graphic Card	Registered
MONSTER 3D	Austria	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Bahrain	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Bulgaria	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Burkina Faso	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Burundi	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Cameroon	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Canada	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Cuba	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Czech Rep	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Dominica	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Egypt	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Ecuador	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	El Salvador	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	France	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Germany	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Ghana	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Greece	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Guatemala	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Haiti	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Hong Kong	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Hungary	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	India	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Indonesia	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Israel	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Italy	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Jamaica	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Japan	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Jordan	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Korea	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Laos	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Malaysia	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Mexico	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Moldavia	667620	11/7/86	9	Graphic Card	Registered
MONSTER 3D	Morocco	667620	11/7/86	9	Graphic Card	Registered
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MONSTER 3D	New Zealand	667620	11/7/86	9	Graphic Card	Registered

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11/18/99 14:36 831 84 8835

S3 FINANCE
LaRiviereGrudman --- S3 FINANCE

015

415-468-0204 MONSTER CABLE

039 P15 NOV 18 '99 13:54

Diana T. Jimenez

12061 217 0335

Nov-17-99 06:25pm From-PILLSBURY MADISON SUTRO VILLAGE 3

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P. 3

DIAMOND MULTIMEDIA SYSTEMS, INC. - TRADEMARK INFORMATION MONSTER

TM	COUNTRY	SERIAL / REGD NO.	REGD DATE	INTL CLASS	DESCRIPTION	STATUS
MONSTER 3D	FORU	42193	12/01/97	8	Graphic Card	Registered
MONSTER 3D	Philippines	12854		9	Graphic Card	Pending
MONSTER 3D	Singapore	7142/97		9	Graphic Card	Pending
MONSTER 3D	USA	75457, 718	7/22/98	8	Graphic Card	Registered
MONSTER FUSION	Germany	384187	1/28/98	8	Graphic Card	Registered
MONSTER FUSION	France	708642	02/18/98	8	Graphic Card	Registered
MONSTER FUSION	United Kingdom	708643	18/02/98	8	Graphic Card	Registered
MONSTER FUSION	USA	7553383	3/12/99	9	Graphic Card	Registered
MONSTER SOUND	Brazil	818, 819, 833	6/15/97	8	Sound Card	Registered

Received Oct-27-99 11:29am

From-408 880 5429

To-PILLSBURY

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RECORDED: 06/17/2003

TRADEMARK
REEL: 002760 FRAME: 0529