

01-20-2004



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Form PTO-1594
(Rev. 10/02)
OMB No. 0651-0027 (exp. 8/30/2005)
Tab settings → → → ▼

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): 12.30.03
Mitsui Chemicals, Inc.

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

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

3. Nature of conveyance:

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

Execution Date: June 9, 2003

2. Name and address of receiving party(ies)

Name: MAM-A Inc.

Internal Address: _____
Address: _____ DEC 30 2003

Street Address: 10045 Federal Drive

City: Colo. Spgs. State: CO Zip: 80908

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State Delaware
- 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) 76/297,487

B. Trademark Registration No.(s) 2,473,891

Additional number(s) attached Yes No

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

Name: Jill J. Chalmers

Internal Address: _____

Street Address: Holme Roberts & Owen LLP

90 S. Cascade Ave., Suite 1300

City: Colo. Spgs. State: CO Zip: 80903

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: _____

DO NOT USE THIS SPACE

9. Signature.

Jill Chalmers, Esq.
Name of Person Signing

Jill Chalmers, Esq.
Signature

12/8/03
Date

Total number of pages including cover sheet, attachments, and document: 2

01/16/2004 ECDOPER 00000094 76297487

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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25.00 OP

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

TO-1594
(6/93)

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

Attorney's Docket No. 018787-014

To the Director of the United States Patent and Trademark Office. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Mitsui Chemicals, Inc.

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

Other: Corporation of Japan

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Merger
- Change of Name

Other: _____

Execution Date: June 9, 2003

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

Name: Manufacturing Advanced Media America, Inc.

Address: 10045 Federal Drive

Colorado Springs, Colorado 80908

U.S.A.

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

76/297,487

B. Trademark Registration No.(s)

2,473,891

Additional numbers attached? Yes No

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

Name: Adrienne L. White

Address: BURNS, DOANE, SWECKER & MATHIS, L.L.P.

P.O. Box 1404

Alexandria, Virginia 22313-1404

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41): \$ 65.00

- Enclosed
- Authorized to be charged to deposit account, if necessary

8. Deposit account number:

02-4800

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.

Adrienne L. White, Esq.

Name of Person Signing

Adrienne L. White 7/8/03

Signature

Date

Total number of pages including cover sheet, attachments, and document: 8

Mail documents to be recorded with required cover sheet information to:

Director of the United States Patent and Trademark Office
Mail Stop Assignment Recordation Services
P.O. Box 1450
Alexandria, VA 22313-1450

REEL 2679 FRAME 0461

CFR 37.103 02-1600

**AMENDMENT TO ASSIGNMENT OF
TRADEMARK REGISTRATION AND APPLICATION**

This Amendment to Assignment of Trademark Registration and Application (the "**Amendment**") is made and entered into this 10th day of November, 2003, by and between **MITSUI CHEMICALS, INC.**, a company organized and existing under the laws of Japan, having its principal place of business at Shiodome City Center, 1-5-2 Higashi-Shimbashi, Minato-ku, Tokyo 105-7117, Japan ("**MCI**") and **MAM-A INC.**, also known as **MANUFACTURING ADVANCED MEDIA AMERICA, INC.**, a company organized and existing under the laws of Delaware, having its principal office at 10045 Federal Drive, Colorado Springs, Colorado 80908, U.S.A. ("**MAM-A**").

WHEREAS, pursuant to that certain Assignment of Trademark Registration and Application, dated June 9, 2003, by and between MCI and MAM-A (the "**Assignment Agreement**"), MCI assigned to MAM-A all right, title and interest in and to the "Gold on Gold" trademark (Registration No. 2473891) and the "Diamond Coat" trademark application (Serial No. 76297487) (together the "**Marks**");

WHEREAS, pursuant to the Assignment Agreement, MCI assigned the Marks to MAM-A under its tradename, "Manufacturing Advanced Media America, Inc."; and

WHEREAS, for purposes of registering the assignment of the Marks by MCI to MAM-A with the United States Patent and Trademark Office, the parties hereto desire to amend the Assignment Agreement such that the Marks are assigned to MAM-A under its legal name, "MAM-A Inc."

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

1. MAM-A's Legal Name. Each reference in the Assignment Agreement to MAM-A's tradename, "Manufacturing Advanced Media America, Inc.", shall be replaced with a reference to MAM-A's legal name, "MAM-A Inc.", and each term in the Assignment Agreement that is defined to refer to MAM-A's tradename, "Manufacturing Advanced Media America, Inc.", shall be deemed to refer to MAM-A's legal name, "MAM-A Inc."
2. No Other Modifications. Except as expressly modified hereby, all other terms and conditions of the Assignment Agreement shall remain unchanged and in full force and effect. None of the rights of MCI or MAM-A thereunder is or shall be deemed to be prejudiced by reason of this Amendment.
3. Effect of Amendment. Each reference in the Assignment Agreement to "Agreement," "hereunder," "hereof," "herein," or words of like import, and each reference to the Assignment Agreement in that certain Share Purchase Agreement, dated May 29, 2003, by and among Computer Support Italcards S.R.L., Mitsui Chemicals America, Inc., and MCI (the "**Share Purchase Agreement**") and any of the agreements or documents attached as an exhibit to the

Share Purchase Agreement shall be read as referring to the Assignment Agreement as amended hereby.

4. Governing Law. This Amendment shall be governed by and construed in accordance with the laws of New York applicable to contracts made and performed in New York and without regard to conflicts of law doctrines.

5. Counterparts. This Amendment may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

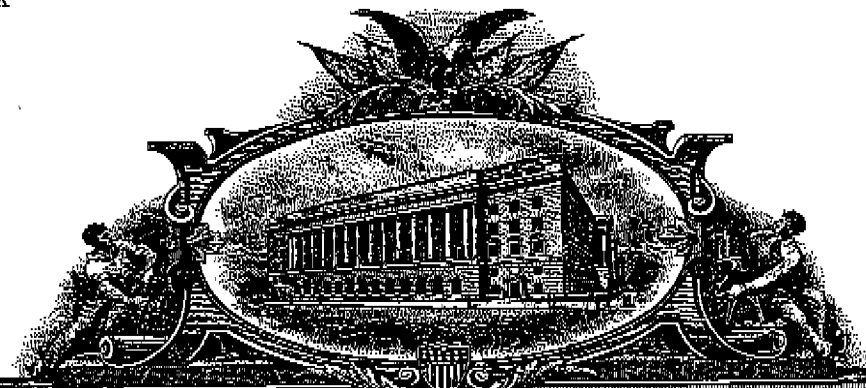
IN WITNESS WHEREOF, each party hereto has caused this Amendment to be executed in its name by a duly authorized representative as of the date first set forth above.

mitsui chemicals, inc.

By: Manabu Furukawa
Name: Manabu Furukawa
Title: Senior Director

MAM-A INC.

By: Vinai Thummalapally
Name: Vinai Thummalapally
Title: President



TS 1046473

THE UNITED STATES OF AMERICA

TO ALL TO WHOM THESE PRESENTS SHALL COME:

**UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office**

August 07, 2003

**THIS IS TO CERTIFY THAT ANNEXED IS A TRUE COPY FROM THE
RECORDS OF THIS OFFICE OF A DOCUMENT RECORDED ON
July 08, 2003.**



**By Authority of the
COMMISSIONER OF PATENTS AND TRADEMARKS**

P. Swain
**P. SWAIN
Certifying Officer**

**TRADEMARK
REEL: 002925 FRAME: 0919**

ASSIGNMENT OF TRADEMARK REGISTRATION AND APPLICATION

This Assignment of Trademark Registration and Application (this "Agreement") is made and entered into this 9th day of June 2003, by and between MITSUI CHEMICALS, INC., a company organized and existing under the laws of Japan, having its principal place of business at Kasumigaseki Building, 3-2-5 Kasumigaseki, Chiyoda-ku, Tokyo 100-6070, Japan ("Assignor"), and MANUFACTURING ADVANCED MEDIA AMERICA, INC., a company organized and existing under the laws of Delaware, having its principal office at 10045 Federal Drive, Colorado Springs, Colorado 80908, U.S.A. ("Assignee").

WITNESSETH:

WHEREAS, Assignor is the owner of (i) "Gold on Gold", a trademark registered with the United States Patent and Trademark Office ("USPTO"); and (ii) "Diamond Coat", a mark with respect to which an application for trademark registration is pending before the USPTO, as set forth in the table below (together "Marks"):

Mark	Registration/Application	Registration/Serial No.
GOLD ON GOLD	Registration	2473891
DIAMOND COAT	Application	76297487

WHEREAS, Assignor has sold substantially all of its indirect interest in Assignee to Computer Support Island S.R.L., an Italian corporation ("CSI"), on the Closing Date pursuant to the Share Purchase Agreement, effective May 29, 2003 ("Share Purchase Agreement"), between Assignor, Mitsui Chemicals America, Inc. and CSI;

WHEREAS, Assignor has agreed to enter into this Agreement with Assignee in accordance with and pursuant to the Share Purchase Agreement; and

WHEREAS, Assignee is desirous of acquiring such Marks in connection with its acquisition of the business of Assignor to which the Marks pertain from Assignor and Assignor is desirous of assigning such Marks to Assignee.

NOW, THEREFORE, in consideration of good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

Article 1 Definitions

"Affiliate" means a Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, a specified Person through control of more than twenty percent (20%) of the voting stock of such Person.

"Agreement" is defined in the first paragraph of this Agreement.

"Assignee" is defined in the first paragraph of this Agreement.

"Assignor" is defined in the first paragraph of this Agreement.

"CD/DVD Recordable Discs" means recordable compact discs (CD-R), recordable digital versatile discs (DVD-R) and other DVD recordable discs.

REEL 2679 FRAME 0462

"Closing Date" means June 1st, 2003.

"Governmental Entity" means any government or any agency, bureau, board, commission, court, department, official, political subdivision, tribunal or other instrumentality of any government, whether federal, state or local, domestic or foreign.

"Loss" or "Losses" means any action, cost, damage, disbursement, expense, liability, loss, deficiency, diminution in value, obligation, penalty or settlement of any kind or nature, whether foreseeable or unforeseeable, including but not limited to, interest or other carrying costs, penalties, legal, accounting and other professional fees and expenses incurred in the investigation, collection, prosecution and defense of claims and amounts paid in settlement, that may be imposed on or otherwise incurred or suffered by the specified Person.

"Marks" is defined in the recitals hereto.

"No-Use Representation" is defined in Section 3.1 below.

"Person" means an association, a corporation, an individual, a partnership, a trust or any other entity or organization, including a Governmental Entity.

"Share Purchase Agreement" is defined in the recitals hereto.

"USPTO" is defined in the recitals hereto.

Article 2 Assignment of Marks

Assignor hereby assigns to Assignee all right, title and interest in and to the Marks and the application for registration of "DIAMOND COAT", together with the goodwill of the business connected with the use of and symbolized by the Marks and such application.

Article 3 Representations and Warranties

3.1 As to the "Diamond Coat" Mark, Assignor represents and warrants that such Mark has not been used by Assignee on any CD/DVD Recordable Disc packaging during the twelve (12) month period immediately prior to the Closing Date ("No-Use Representation").

3.2 Except for the No-Use Representation set forth in Section 3.1 above, Assignor makes no guaranty or warranty in respect of the Marks whatsoever, and Assignor expressly waives all rights to claim against, or rights to indemnify from, Assignor for any Losses suffered by Assignee in relation to Assignee's use or ownership of such Marks after the Closing Date.

Article 4 Indemnification

4.1 Notwithstanding Section 3.2 above, Assignor shall, subject to the limitations of Sections 9.9, 9.11 and 10.18 of the Share Purchase Agreement, indemnify and hold harmless Assignee from and against any and all Losses directly or indirectly resulting from, or based upon or arising from (i) claims of third parties in connection with events, actions or omissions of Assignee and/or Assignor, and their respective directors, officers, employees, Affiliates, agents and assigns concerning the Marks prior to the Closing Date, whether known or unknown to the Assignee and/or Assignor as of the Closing Date and, (ii) only in case the No-Use Representation is not true or not correct, (a) claims of third parties in connection with the use by Assignee on any CD/DVD Recordable Disc packaging of the "Diamond Coat" Mark after the Closing Date and/or (b) the loss of value of the "Diamond Coat" Mark as of the Closing Date (which loss of value shall be deemed to include that loss of value possibly arising from the rejection of the application number 76/297,487 by the USPTO). For purposes of subsection (b) of the immediately preceding

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REEL 2679 FRAME 0463

sentence, the parties have agreed that Assignor's indemnity obligation shall be limited to, and the 'value of the 'Diamond Coat' Mark as of the Closing Date" shall be equal to, thirty percent (30.0%) of the aggregate revenues of Assignee, for the twelve (12) month period prior to the Closing Date, resulting from sales by Assignee of CD/DVD Recordable Discs with packaging imprinted with the "Diamond Coat" Mark.

4.2 In the event that a claim against Assignee arises that is covered by the indemnity provisions of this Article 4 (an "Indemnifiable Claim"), Assignee shall provide notice to Assignor and the parties shall address any such Indemnifiable Claim in accordance with Section 9.7 of the Share Purchase Agreement.

4.3 This Article 4 shall be the exclusive remedy of the parties hereto for damages under this Agreement and shall be deemed to preclude the exercise of any other rights and the pursuit of other remedies (whether in contract, tort or otherwise) in damages for the breach (or alleged breach) of any representation, warranty, covenant or agreement contained in this Agreement. Notwithstanding the foregoing the parties retain the right to apply for a restraining order or injunction, should any breach of this Agreement threaten to cause an irreparable harm that will be not be cured by the remedies provided by this Article 4.

Article 5 Governing Law and Dispute Resolution

5.1 This Agreement shall be governed by and construed in accordance with the laws of New York applicable to contracts made and performed in New York and without regard to conflicts of law doctrines.

5.2 Assignor and Assignee shall use their best efforts to settle amicably any disagreement, dispute, controversy or claim arising out of or relating to the relationship between the parties, this Agreement or the interpretation hereof or any arrangements relating hereto or contemplated herein or the breach, termination or invalidity hereof (each such disagreement, dispute, controversy or claim shall be referred to as a "Dispute"). If a Dispute is not settled amicably within thirty (30) days after receipt by one party of the other party's request for amicable settlement, either party may at any time after the expiration of such 30-day period submit such Dispute to arbitration pursuant to the rules of arbitration of the International Chamber of Commerce by three (3) arbitrators appointed in accordance with such rules. Such arbitration shall be the exclusive means of final settlement of any Dispute. The place of arbitration shall be Boston, Massachusetts. The language used in the arbitration shall be the English language. Any decision or award of the arbitral tribunal shall be final and binding upon the parties to the arbitration. The parties to this Agreement hereby waive to the extent permitted by law any rights to appeal or to review of such award by any court or tribunal and agree that the arbitral award may be enforced against the parties to the arbitration or their assets wherever they may be found and that a judgment upon the arbitral award may be entered in any court having jurisdiction thereof. Provided, however, that this arbitration agreement will not preclude either party from seeking, before or after commencement of such 30-day period, from any court with jurisdiction to issue preliminary injunction, attachment or other form of provisional remedy in aid of arbitration. In addition to the authority conferred on an arbitral tribunal by the rules of arbitration specified above, such arbitral tribunal shall also have the authority to grant injunctive relief and/or specific performance, and such other relief as may be proper (including monetary damages if appropriate).

Article 6 General

6.1 Any notice or other communication hereunder must be given in writing and (a) delivered in person or by an internationally recognized overnight courier, (b) transmitted by facsimile or (c) mailed by certified or registered mail, postage prepaid and receipt requested as follows:

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REEL 2679 FRAME 0464

If to Assignor, addressed to:

Mitsui Chemicals, Inc.
3-2-5 Kasumigasaki, Chiyoda-ku, Tokyo 100-6070, Japan
Attention: General Manager
Electronics & Information Materials Division
Fax: +81-3-3592-4229

If to Assignee, addressed to:

Manufacturing Advanced Media America, Inc.
10045 Federal Drive, Colorado Springs, Colorado 80908, U.S.A.
Attention: President
Fax: +1-719-592-0057

With a copy to:

Computer Support Italcord S.R.L.
Via Art e Mestieri, 14
20050 Sulbiate
Milan Italy
Attn.: Riccardo Parati, President
Fax: +39-039-6242-394.

or to such other address or to such other person as either party shall have last designated by such notice to the other party. Each such notice or communication shall be effective (i) if given by facsimile, when transmitted to the applicable number so specified and an appropriate confirmation is received; (ii) if given by courier, three (3) days after deposited with any courier service addressed to the party as aforesaid; (iii) if given by mail, five (5) days after such notice is deposited in the mails with first class postage prepaid, addressed as aforesaid or (iv) if given by personal delivery, when actually delivered at such address.

- 6.2 No waiver by either party of any breach of, or of compliance with, any condition or provision of this Agreement by the other party shall be considered a waiver of any other condition or provision or of the same condition or provision at another time.
- 6.3 If any provision of this Agreement is found invalid, illegal or unenforceable by an arbitrator or a court of any competent jurisdiction, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 6.4 This Agreement, including those certain references to the Share Purchase Agreement, embodies the entire agreement and understanding between the parties relating to the subject matter hereof, and supersedes all previous negotiations, representations and agreements between the parties regarding those subjects provided, however, that should any conflict arise between this Agreement and those referenced terms of the Share Purchase Agreement, the terms of the Share Purchase Agreement shall prevail.
- 6.5 This Agreement may not be modified except by a supplemental written agreement signed by an authorized officer of Assignor and Assignee.
- 6.6 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together will constitute one and the same instrument.

REEL 2679 FRAME 0465

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IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed in its name by a duly authorized representative as of the date hereof.

Assignee:

MANUFACTURING ADVANCED MEDIA AMERICA, INC.

By: [Signature]
Name: Riccardo Peretti
Title: Chairman of the Board

Assignor:

MITSUBI CHEMICALS, INC.

By: [Signature]
Name: Manabu Furukawa
Title: Senior Director

I do hereby certify on this 9th day of June 2003 before me, the undersigned Notary Public for the County of El Paso, State of Colorado, U.S.A., personally appeared Manabu Furukawa, personally known to me to be the person who executed this instrument as Senior Director of the Assignor herein named.

WITNESS my hand and official seal.

[Signature]
Notary Public



REEL 2679 FRAME 0466

Assignment of Trademark Registration and Application Execution Page

RECORDED ON: 07/08/2003

TOTAL P.07

RECORDED: 12/30/2003

TRADEMARK
REEL: 002925 FRAME: 0924