

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
 Stylesheet Version v1.1

<b>SUBMISSION TYPE:</b>		NEW ASSIGNMENT	
<b>NATURE OF CONVEYANCE:</b>		Collateral Assignment and Security Agreement	
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Orchard Learning, Inc.		03/20/2009	CORPORATION: MISSOURI
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Southwest Bank, An M&I Bank		
<b>Street Address:</b>	13205 Manchester Road		
<b>City:</b>	St. Louis		
<b>State/Country:</b>	MISSOURI		
<b>Postal Code:</b>	63131		
<b>Entity Type:</b>	CORPORATION: MISSOURI		
<b>PROPERTY NUMBERS Total: 2</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	3463542	PRACTICEPLANET	
<b>Registration Number:</b>	3383398	ORCHARD SOFTWARE	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(314)621-5065		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
<b>Phone:</b>	314-621-5070		
<b>Email:</b>	iptm@armstrongteasdale.com		
<b>Correspondent Name:</b>	David B. Jennings		
<b>Address Line 1:</b>	One Metropolitan Square, Suite 2600		
<b>Address Line 4:</b>	St. Louis, MISSOURI 63102		
<b>ATTORNEY DOCKET NUMBER:</b>	05485-00673		
<b>NAME OF SUBMITTER:</b>	David B. Jennings		
<b>Signature:</b>	/DBJ-ATLLP/		
<b>Date:</b>	04/15/2009		

CH \$65.00 3463542

**Total Attachments: 12**

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**TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT**

**THIS TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT** (the "*Agreement*") is made as of the 20<sup>th</sup> day of March, 2009, by and between **ORCHARD LEARNING, INC.**, a Missouri corporation with its chief executive office and principal place of business located at 325 N. Kirkwood Road, Suite 200, Kirkwood, Missouri 63122 ("*Assignor*"), and **SOUTHWEST BANK, AN M&I BANK**, a Missouri banking corporation with an office located at 13205 Manchester Road, St. Louis, Missouri 63131 ("*Southwest*").

WHEREAS, Assignor has executed and delivered to Southwest a Credit Agreement dated as of even date herewith (as amended from time to time, the "*Credit Agreement*"), which provides that Southwest shall, subject to the terms and conditions thereof, extend credit to or for the benefit of Assignor in an outstanding principal amount not to exceed \$2,575,057.00;

WHEREAS, in order to induce Southwest to execute and deliver the Credit Agreement, Assignor has agreed to grant to Southwest a security interest in, and collaterally assigns to Southwest, certain trademark rights;

WHEREAS, this Agreement is being executed contemporaneously with that certain Security Agreement dated as of even date herewith, executed by Assignor for the benefit of Southwest under which Southwest has been granted a security interest in, among other things, all equipment, inventory, accounts, general intangibles, books, records, product specifications, goodwill, customer lists and trade secrets (collectively, the "*Other Assets*") relating to products sold under the Trademark, as defined hereinafter; and

WHEREAS, the Credit Agreement provides that Southwest shall have the right to foreclose on the Trademark Collateral (as defined herein), and the Other Assets, upon the occurrence and during the continuation of an Event of Default, as defined in the Credit Agreement, in order that any owner of the Trademark Collateral may continue the manufacture or distribution of products under the Trademark and maintain substantially the same product specifications and quality as maintained by Assignor.

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor hereby agrees with Southwest as follows:

1. Grant of Security Interest; Collateral Assignment.

(a) To secure the complete and timely satisfaction of all obligations of Assignor to Southwest, including without limitation, the obligations of Assignor to Southwest under the Credit Agreement and other Loan Documents (as defined in the Credit Agreement) (collectively, the "*Obligations*"), Assignor hereby grants to Southwest a continuing security interest in all of its right, title and interest in and to the trademark(s), trade name(s) and servicemark(s) listed on Schedule A hereto (as the same may be amended pursuant hereto from time to time) (collectively, the "*Trademark*"), including, without limitation, all renewals thereof, all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements and all rights corresponding thereto throughout the world (all of the foregoing are collectively called the "*Trademark Rights*"), and the goodwill of the business to which the Trademark relates (the "*Associated Goodwill*") (the Trademark, the Trademark Rights, and the Associated Goodwill are collectively called the "*Trademark Collateral*").

(b) In addition to the grant of security interest provided in paragraph 1(a), Assignor hereby assigns and conveys to Southwest all of its right, title and interest in and to the Trademark Collateral; provided, however, that such assignment and conveyance shall be and become of force and effect only, and shall immediately and automatically become of force and effect without further action, upon the occurrence of an Event of Default (as defined in the Credit Agreement).

2. Representations, Warranties and Covenants of Assignor. Assignor represents, covenants and warrants to Southwest that to the best of its knowledge without investigation:

(a) The registrations of the Trademark are subsisting and have not been adjudged invalid or unenforceable;

(b) The Trademark is valid and enforceable;

(c) No claim has been made that the use of the Trademark does or may violate the rights of any third person;

(d) Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to the Trademark, free and clear of any liens, charges and the encumbrances, including, without limitation, pledges, assignments, licenses, registered user agreements and covenants by Assignor not to sue third persons;

(e) Assignor has the unqualified right to enter into this Agreement and to perform its terms;

(f) Assignor shall use, for the duration of this Agreement, the proper statutory notice in connection with its use of the Trademark;

(g) Assignor shall use for the duration of this Agreement, consistent standards of quality in its manufacture and/or sale of products sold under the Trademark.

3. Inspection Rights. Assignor hereby grants to Southwest and its employees, agents and designees the right to visit Assignor's plants and facilities which manufacture, distribute or store products sold under the Trademark, and to inspect the products and quality control records relating thereto. Assignor shall do any and all acts reasonably required by Southwest to ensure Assignor's compliance with paragraph 2(g) hereof.

4. Further Assurances. Assignor agrees that, until all of the Obligations shall have been satisfied in full and the Credit Agreement has been terminated in accordance with its terms, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Assignor's obligations under this Agreement, without Southwest's prior written consent. Assignor further agrees that at any time and from time to time, at the expense of Assignor, Assignor will promptly execute and deliver all further instruments and documents, and take all further action, that may be necessary or desirable, or that Southwest may reasonably request, in order to perfect and protect the security interest and collateral assignment granted or purported to be granted hereby or to enable Southwest to exercise its rights and remedies hereunder.

5. Additional Trademarks. If, before the Obligations shall have been satisfied in full, Assignor shall obtain rights to any registrations of any new trademark(s), trade name(s) or servicemark(s) or application(s) therefor, the provisions of paragraph 1 shall automatically apply thereto and Assignor shall give Southwest prompt written notice thereof.

6. Modification by Southwest. Assignor authorizes Southwest to modify this Agreement by amending Schedule A to include any future registrations of any trademark(s), trade name(s) or servicemark(s), or future application(s) therefor, covered by paragraphs 1 and 5 hereof, without the signature of Assignor to the extent permitted by applicable law.

7. Grant of License to Southwest. Assignor hereby presently grants to Southwest a license to use the Trademark in connection with the Collateral (as defined in the Credit Agreement), upon and after the foreclosure upon, sale or other transfer of all or any part of the Collateral by or to Southwest pursuant to the Credit Agreement and/or this Agreement. The license granted in this paragraph 7 may be transferred by Southwest, without Assignor's consent, to any successor of Southwest, any assignee of Southwest, and/or any purchaser or other transferee of any or all of the Collateral. This license may not be revoked until all of the Obligations have been satisfied in full and the Credit Agreement has been terminated in accordance with its terms.

8. Rights of Assignor. Unless and until there shall have occurred an Event of Default, Assignor shall own the title to the Trademark Collateral and shall have the exclusive, nontransferable right to use the Trademark on and in connection with products sold by Assignor, for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any license under the Trademark or the other Trademark Collateral, other than the license to Southwest hereunder and licenses to end-user customers in the ordinary course of Assignor's business, without the prior written consent of Southwest.

9. Default. If any Event of Default shall have occurred, Southwest shall have, in addition to all other rights and remedies given it by this Agreement, those provided in the Credit Agreement and those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademark Collateral may be located.

10. Termination of Agreement. At such time as Assignor shall completely satisfy all of the Obligations and the Credit Agreement shall be terminated in accordance with its terms, this Agreement shall terminate and Southwest shall execute and deliver to Assignor, at Assignor's expense, and without recourse, representation or warranty, all releases, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Trademark Collateral, subject to any disposition thereof which may have been made by Southwest pursuant hereto.

11. Expenses. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including, without limitation, reasonable attorneys' fees and legal expenses, incurred by Southwest in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including, without limitation, all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Trademark Collateral, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademark Collateral, shall, to the extent permitted by applicable law, be borne and paid by Assignor on demand by Southwest and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the interest rate then applicable under the Credit Agreement.

12. Preservation of Trademark Rights. Assignor shall have the duty, through counsel reasonably acceptable to Southwest, to do any and all acts which are reasonably necessary or desirable to preserve and maintain all rights in the Trademark. Any expenses incurred in connection with the foregoing shall be borne by Assignor. Assignor shall not abandon any Trademark without the prior written consent of Southwest, which consent shall not be unreasonably withheld. Assignor shall have the right, with the consent of Southwest, which consent shall not be unreasonably withheld, to bring any

opposition proceedings, cancellation proceedings or lawsuit in its own name to enforce or protect the Trademark, in which event Southwest may, if necessary, be joined as a nominal party to such suit so long as Southwest is satisfied, in its sole determination, that such joinder will not subject it to any risk of liability. Assignor shall promptly, upon demand, reimburse and indemnify Southwest for all damages, costs and expenses, including, without limitation, reasonable attorneys' fees, incurred by Southwest in the fulfillment of any provision of this paragraph 12.

13. Southwest Appointed Attorney-In-Fact. Assignor hereby authorizes and empowers Southwest, upon and after the occurrence of an Event of Default, to make, constitute and appoint any officer or agent of Southwest as Southwest may select, in its exclusive discretion, as Assignor's true and lawful attorney-in-fact, with the power to endorse Assignor's name on all applications, documents, papers and instruments necessary for Southwest to use the Trademark or the other Trademark Collateral, or to grant or issue any exclusive or non-exclusive license under the Trademark Collateral to Southwest or anyone else, or necessary for Southwest to assign, pledge, convey or otherwise transfer title in or dispose of the Trademark Collateral to anyone else. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

14. Southwest May Act. If Assignor fails to comply with any of its obligations hereunder, Southwest may do so in Assignor's name or in Southwest's name to the extent permitted by applicable law, but at Assignor's expense, and Assignor hereby agrees to reimburse Southwest in full for all reasonable expenses, including, without limitation, reasonable attorneys fees, incurred by Southwest in protecting, defending or maintaining the Trademark Collateral or any part thereof.

15. No Waiver. No course of dealing between Assignor and Southwest, nor any failure to exercise, nor any delay in exercising, on the part of Southwest, any right, power or privilege hereunder, under the Credit Agreement or under applicable law shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

16. Rights Cumulative. All of Southwest's rights and remedies with respect to the Trademark Collateral, whether established hereby or by the Credit Agreement, or by any other agreements or by law, shall be cumulative and may be exercised singularly or concurrently.

17. Severability. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

18. Modification. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 6.

19. Inurement. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties; provided however, that the foregoing provision shall not invalidate or otherwise modify the restrictions imposed on Assignor hereunder with respect to transferring any part of or interest in the Trademark Collateral.

20. Governing Law. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed and construed in accordance with the internal laws of the State of Missouri.

21. Headings. The headings contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

22. Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be deemed an original for all purposes, and all of which shall constitute but one and the same instrument.

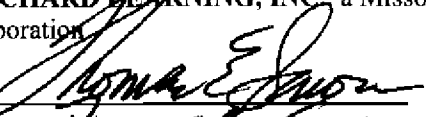
23. Jury Trial. **ASSIGNOR HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY (WHICH SOUTHWEST ALSO WAIVES) IN ANY ACTION, SUIT, PROCEEDING OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

24. Jurisdiction. **ASSIGNOR HEREBY CONSENTS TO THE JURISDICTION OF ANY STATE COURT LOCATED WITHIN THE CITY OF ST. LOUIS OR ST. LOUIS COUNTY, MISSOURI OR FEDERAL COURT IN THE EASTERN DISTRICT OF MISSOURI, EASTERN DIVISION, AND WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON IT AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS BE MADE BY CERTIFIED OR REGISTERED MAIL DIRECTED TO ASSIGNOR AT ITS ADDRESS SET FORTH HEREIN AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED UPON ACTUAL RECEIPT THEREOF. ASSIGNOR WAIVES ANY OBJECTION TO JURISDICTION AND VENUE OF ANY ACTION INSTITUTED AGAINST IT AS PROVIDED HEREIN AND AGREES NOT TO ASSERT ANY DEFENSE BASED ON LACK OF JURISDICTION OR VENUE.**

*[remainder of page intentionally left blank – signature page follows]*

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

ORCHARD LEARNING, INC. a Missouri corporation

By:   
Name: Thomas B. Sawwe  
Title: President

SOUTHWEST BANK, AN M&I BANK, a Missouri banking corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

[SIGNATURE PAGE TO TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT]

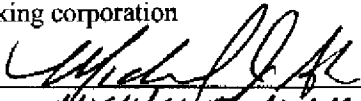


IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

**ORCHARD LEARNING, INC.**, a Missouri corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

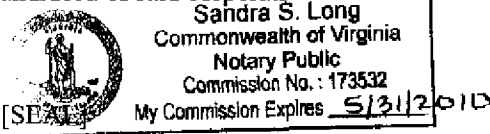
**SOUTHWEST BANK, AN M&I BANK**, a Missouri banking corporation

By:   
Name: MICHAEL J. ALAM  
Title: VICE PRESIDENT

[SIGNATURE PAGE TO TRADEMARK COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT]

STATE OF MISSOURI )  
 ) SS  
County OF Warren )

Before me, the undersigned, a Notary Public in and for the County and State aforesaid, on this 20<sup>th</sup> day of March, 2009, personally appeared Thomas E. Sawyer to me known personally, and who, being by me duly sworn, deposes and says that he is the President of ORCHARD LEARNING, INC., a Missouri corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said corporation.



Sandra S. Long  
Notary Public

My commission expires: 5/31/2010

STATE OF MISSOURI )  
 ) SS  
\_\_\_\_\_ OF \_\_\_\_\_ )

Before me, the undersigned, a Notary Public in and for the \_\_\_\_\_ and State aforesaid, on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared \_\_\_\_\_ to me known personally, and who, being by me duly sworn, deposes and says that he is the \_\_\_\_\_ of SOUTHWEST BANK, AN M&I BANK, a Missouri banking corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

[SEAL]

My commission expires:

STATE OF MISSOURI )  
 ) SS  
\_\_\_\_ OF \_\_\_\_\_ )

Before me, the undersigned, a Notary Public in and for the \_\_\_\_\_ and State aforesaid, on this \_\_\_\_\_ day of \_\_\_\_\_, 2009, personally appeared \_\_\_\_\_ to me known personally, and who, being by me duly sworn, deposes and says that he is the \_\_\_\_\_ of ORCHARD LEARNING, INC., a Missouri corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said corporation.

\_\_\_\_\_  
Notary Public

[SEAL]

My commission expires:

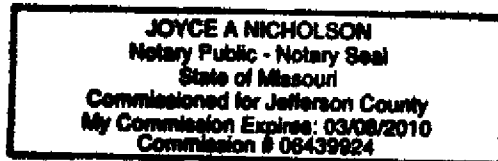
STATE OF MISSOURI )  
 ) SS  
*County of St. Louis* )

Before me, the undersigned, a Notary Public in and for the *County* and State aforesaid, on this *24th* day of *March*, 2009, personally appeared *Michael Alan* to me known personally, and who, being by me duly sworn, deposes and says that he is the *Vice President* of SOUTHWEST BANK, AN M&I BANK, a Missouri banking corporation, and that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and said individual acknowledged said instrument to be the free act and deed of said corporation.

*Joyce A. Nicholson*  
\_\_\_\_\_  
Notary Public

[SEAL]

My commission expires: *3/8/2010*



EXECUTION COPY

**SCHEDULE A**

SEE ATTACHED

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 3,463,542

**United States Patent and Trademark Office**

Registered July 8, 2008

**TRADEMARK  
PRINCIPAL REGISTER**

**PRACTICEPLANET**

SIBONEY LEARNING GROUP, INC. (TEXAS  
CORPORATION)  
325 N. KIRKWOOD ROAD, #300  
ST. LOUIS, MO 63122

THE MARK CONSISTS OF STANDARD CHAR-  
ACTERS WITHOUT CLAIM TO ANY PARTICULAR  
FONT, STYLE, SIZE, OR COLOR.

FOR: EDUCATIONAL SOFTWARE FEATURING  
ONLINE, WEB-BASED STANDARDIZED TEST PRE-  
PARATION, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND  
38).

SN 77-155,197, FILED 4-12-2007.

FIRST USE 6-25-2007; IN COMMERCE 6-25-2007.

ESTHER BELENKER, EXAMINING ATTORNEY

Int. Cl.: 9

Prior U.S. Cls.: 21, 23, 26, 36, and 38

Reg. No. 3,383,398

**United States Patent and Trademark Office**

Registered Feb. 12, 2008

**TRADEMARK  
PRINCIPAL REGISTER**

**ORCHARD SOFTWARE**

SIBONEY LEARNING GROUP, INC. (TEXAS CORPORATION)  
325 N. KIRKWOOD ROAD, #300  
ST. LOUIS, MO 63122

FOR: EDUCATIONAL SOFTWARE FEATURING INSTRUCTION ON TOPICS RELATING TO MATH, SCIENCE, READING, VOCABULARY AND WRITING, IN CLASS 9 (U.S. CLS. 21, 23, 26, 36 AND 38).

FIRST USE 9-0-1997; IN COMMERCE 9-0-1997.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SOFTWARE", APART FROM THE MARK AS SHOWN.

SN 78-958,550, FILED 8-23-2006.

TRACY WHITTAKER-BROWN, EXAMINING ATTORNEY