

TRADEMARK ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:		NEW ASSIGNMENT	
NATURE OF CONVEYANCE:		Intellectual Property Security Agreement	
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Benchmark Solutions Holdings Inc.		09/30/2010	CORPORATION: DELAWARE
RECEIVING PARTY DATA			
Name:	Comerica Bank		
Street Address:	75 East Trimble Road		
Internal Address:	M/C 4770		
City:	San Jose		
State/Country:	CALIFORNIA		
Postal Code:	95131		
Entity Type:	Banking Association: TEXAS		
PROPERTY NUMBERS Total: 1			
Property Type	Number	Word Mark	
Serial Number:	85073051	OPENX	
CORRESPONDENCE DATA			
Fax Number:	(617)951-8736		
	<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>		
Phone:	6179518000		
Email:	jennifer.kagan@bingham.com		
Correspondent Name:	Jennifer Kagan		
Address Line 1:	One Federal Street		
Address Line 2:	Bingham McCutchen LLP		
Address Line 4:	Boston, MASSACHUSETTS 02110		
ATTORNEY DOCKET NUMBER:	33992537/0000351499		
NAME OF SUBMITTER:	Jennifer Kagan		
Signature:	/jenniferkagan/		

OP \$40.00 85073051

900172788

**TRADEMARK
 REEL: 004287 FRAME: 0549**

Date:

09/30/2010

Total Attachments: 14

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INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT, dated as of September 30, 2010, is entered into by and between **BENCHMARK SOLUTIONS HOLDINGS INC.**, a Delaware corporation (hereinafter, together with its successors in title and assigns, called the "**Grantor**"), and **COMERICA BANK**, a Texas banking association (hereinafter, together with its successors in title and assigns, called the "**Lender**").

Statement of Facts

A. Pursuant to the Loan and Security Agreement, dated as of the date hereof, by and among the Grantor, Benchmark Solutions Inc., a wholly-owned Subsidiary of the Grantor (the "**Borrower**"), and the Lender (as amended, modified, supplemented or restated and in effect from time to time, the "**Loan Agreement**"), the Lender has agreed to make loans to the Borrower (collectively, the "**Loans**").

B. In order to induce the Lender to enter into the Loan Agreement and other Loan Documents and to make Loans and other Credit Extensions to the Borrower upon the terms and subject to the conditions contained in the Loan Agreement, the Grantor has agreed, upon the terms contained in the Loan Agreement, to grant to the Lender continuing security interests in and Liens upon all Intellectual Property Collateral (as hereinafter defined) of the Grantor in order to secure all of the Loan Obligations (as defined below).

C. The Grantor has granted to the Lender continuing security interests in and Liens upon all of the Intellectual Property Collateral of the Grantor pursuant to and upon the terms and conditions contained in the Loan Agreement and the Security Agreement, dated as of the date hereof, by and among the Grantor, certain of its affiliates from time to time party thereto, and the Lender (as amended, modified, supplemented or restated and in effect from time to time, the "**Security Agreement**").

D. Upon the terms contained in the Loan Agreement and also the Security Agreement, the Grantor has agreed to execute and deliver to the Lender this Intellectual Property Security Agreement, which is supplemental to the Loan Agreement and also the Security Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby absolutely, unconditionally and irrevocably agrees with the Lender as follows:

1. **Definitions.** All capitalized terms used but not otherwise defined herein shall have the meanings given to them in the Security Agreement or, if not defined therein, then in the Loan Agreement, and the following terms shall have (unless otherwise provided elsewhere in this Intellectual Property Security Agreement) the following respective meanings (such meanings being equally applicable to both the singular and plural forms of the terms defined):

(a) **“Intellectual Property Collateral”** shall mean all of the rights, title and interests of the Grantor in, to and under all of the following, whether presently existing or at any time or from time to time hereafter created, arising or acquired to the extent comprising Security Agreement Collateral (as defined in the Security Agreement):

(i) all of its Trademarks, including, without limitation, all of those referred to in Schedule I hereto;

(ii) all of its Patents, including, without limitation, all of those referred to in Schedule II hereto;

(iii) all of its Copyrights, including, without limitation, all of those referred to in Schedule III hereto;

(iv) all goodwill of the businesses of the Grantor connected with the use of, or otherwise symbolized by, each Trademark, Patent and Copyright; and

(v) all income, products and proceeds of each of the foregoing, including, without limitation, all claims by the Grantor against third parties for past, present or future (A) infringement or dilution of any Trademark, (B) injury to any goodwill associated with any Trademark, (C) infringement of any Patent, (D) injury to any goodwill associated with any Patent, (E) infringement of any Copyright, and (F) injury to any goodwill associated with any Copyright.

(b) **“Loan Agreement”** and **“Security Agreement”** shall have the meanings given to such terms in the Statement of Facts above.

(c) **“Loan Obligations”** shall mean any and all of the Obligations (as that term is defined in the Loan Agreement).

All other terms contained in this Intellectual Property Security Agreement shall, unless the context shall indicate otherwise, have the meanings provided for by the U.C.C. to the extent that such other terms are used or defined therein and are not otherwise defined in the Loan Agreement. References to the Loan Agreement or to the Security Agreement include any amendment, modification, supplement, restatement, replacement or refinancing (in whole or in part) thereof, whether by way of increase or reduction to any of the Commitments or the principal amount of any of the Loans, addition or elimination of any credit facilities thereunder, extension of any term, addition or deletion of any party thereto, or otherwise.

2. **Grant of Security Interests.** To secure the prompt and complete payment and performance of all and each of the Loan Obligations, as and when the same shall become due and payable, whether at stated maturity, by required prepayment, declaration, acceleration, demand or otherwise (including the payment of amounts that would become due and payable but for the operation of the automatic stay under the Bankruptcy Code), the Grantor hereby grants to the Lender a continuing security interest in and Lien upon all of the rights, title and interests of the Grantor to, in and under the Intellectual Property Collateral.

3. **Representations and Warranties.** The Grantor represents and warrants to the Lender that, as of the Closing Date, the Grantor does not have any ownership interest in, or title to, any registered Trademark, Patent or registered Copyright, **except** as set forth in Schedule I, Schedule II and Schedule III hereto. This Intellectual Property Security Agreement is effective to create valid and continuing security interests in and Liens upon, and, upon the recording hereof with the United States Patent and Trademark Office and the United States Copyright Office, and the filing of appropriate financing statements in the State of Delaware, perfected Liens in favor of the Lender on, the Grantor's Patents, Trademarks and Copyrights comprising Security Agreement Collateral, to the extent such perfection can be achieved by making such filings; and such perfected security interests and Liens shall be enforceable as such as against any and all creditors of or purchasers from the Grantor.

4. **Security Agreement.** The security interests and Liens granted by the Grantor to the Lender pursuant to this Intellectual Property Security Agreement are granted in conjunction with the security interests and Liens granted by the Grantor to the Lender pursuant to the Loan Agreement and the Security Agreement. The Grantor and the Lender expressly agree that each of the security interests and Liens granted under this Intellectual Property Security Agreement, the Loan Agreement and the Security Agreement in the Intellectual Property Collateral are intended to be treated as a single security interest for purposes of Article 9 of the U.C.C. and other Applicable Law. The exercise by the Lender of any rights or remedies with respect to any of the Intellectual Property Collateral shall be deemed to be an exercise of such rights or remedies in connection with both this Intellectual Property Security Agreement and also the Loan Agreement and the Security Agreement. In the event of any inconsistency between the terms and conditions of this Intellectual Property Security Agreement and the Loan Agreement and the Security Agreement, then the terms and conditions of the Loan Agreement and the Security Agreement shall prevail.

5. **Reinstatement.** This Intellectual Property Security Agreement shall remain in full force and effect and continue to be effective in the event that any petition shall be filed by or against the Grantor for liquidation or reorganization, should the Grantor become insolvent or make an assignment for the benefit of any creditor or creditors or should a receiver or trustee be appointed for all or any significant part of the Grantor's assets, and shall continue to be effective or be reinstated, as the case may be, if at any time payment and performance of the Loan Obligations, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned, whether as a "voidable preference," "fraudulent conveyance," or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the Loan Obligations shall be reinstated and shall be deemed reduced only by such amount paid in cash and not so rescinded, reduced, restored or returned.

6. **Notices.** Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties hereto by any other party hereto, or whenever any of the parties hereto desires to give and serve upon any other party hereto any communication with respect to this Intellectual Property Security Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be given in

the manner, and deemed received, as provided for in the notice provisions of the Loan Agreement.

7. **Termination.** Subject always to Section 5 hereof, this Intellectual Property Security Agreement shall terminate upon the Termination Date. Upon any termination of the Liens created hereunder upon the Termination Date, the Lender shall, at the sole cost and expense of the Grantor, promptly execute and deliver to the Grantor such documents as the Grantor shall reasonably request to evidence the termination of the Liens created hereby.

8. **Choice Of Law And Venue; Jury Trial Waiver.** THIS AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF CALIFORNIA. EACH OF THE GRANTOR AND THE LENDER HEREBY SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE STATE AND FEDERAL COURTS LOCATED IN THE STATE OF CALIFORNIA. EACH OF THE LENDER AND THE GRANTOR ACKNOWLEDGES THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL ONE, BUT THAT IT MAY BE WAIVED. EACH OF THEM, AFTER CONSULTING OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH COUNSEL OF THEIR CHOICE, KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVES ANY RIGHT ANY OF THEM MAY HAVE TO A TRIAL BY JURY IN ANY LITIGATION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY RELATED INSTRUMENT OR LOAN DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR ANY COURSE OF CONDUCT, DEALING, STATEMENTS (WHETHER ORAL OR WRITTEN), OR ACTION OF ANY OF THEM. THESE PROVISIONS SHALL NOT BE DEEMED TO HAVE BEEN MODIFIED IN ANY RESPECT OR RELINQUISHED BY THE LENDER OR THE GRANTOR, EXCEPT BY A WRITTEN INSTRUMENT EXECUTED BY EACH OF THEM. EACH OF THE PARTIES HERETO HEREBY AGREES TO BE BOUND BY THE REFERENCE PROVISION SET FORTH IN SECTION 12 OF THE LOAN AGREEMENT, WHICH REFERENCE PROVISION IS HEREBY INCORPORATED HEREIN BY REFERENCE WITH THE SAME FULL FORCE AND EFFECT AS IF SET FORTH HEREIN IN FULL.

9. **Delivery by Facsimile, etc.** Delivery of the signature pages to this Intellectual Property Security Agreement by facsimile or by electronic mail in portable document format (.pdf) shall be as effective as delivery of manually executed counterparts of this Agreement.

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****Signature Pages to Benchmark Solutions Holdings Intellectual Property Security Agreement follow****

IN WITNESS WHEREOF, the Grantor has caused this INTELLECTUAL PROPERTY SECURITY AGREEMENT to be executed and delivered by its duly authorized officer or other representative as of the date first set forth above.

Grantor:

BENCHMARK SOLUTIONS HOLDINGS INC.

By: _____

Name: James Toffey

Title: Chief Executive Officer

****Signature Page to Benchmark Solutions Holdings Intellectual Property Security Agreement****

**TRADEMARK
REEL: 004287 FRAME: 0555**

IN WITNESS WHEREOF, the Grantor has caused this **INTELLECTUAL PROPERTY SECURITY AGREEMENT** to be executed and delivered by its duly authorized officer or other representative as of the date first set forth above.

The Lender:

COMERICA BANK

By: Paula J. Howell

Name: Paula J. Howell

Title: Senior Vice President

****Signature Page to Benchmark Solutions Intellectual Property Security Agreement****

SCHEDULE I

To

BENCHMARK SOLUTIONS HOLDINGS INC.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

A. U.S. TRADEMARK REGISTRATIONS.

<u>Mark</u>	<u>Reg. No.</u>	<u>Date</u>
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None.

B. U.S. TRADEMARK APPLICATIONS.

<u>Mark</u>	<u>Application No.</u>	<u>Date</u>
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See attached Annex B.

C. U.S. TRADEMARK LICENSES.

<u>Name of Agreement</u>	<u>Date of Agreement</u>	<u>Parties</u>
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None.

ANNEX B

to

SCHEDULE I

to

BENCHMARK SOLUTIONS HOLDINGS INC.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

TRADEMARK APPLICATIONS

<u>Mark</u>	<u>Application Number</u>	<u>Date</u>
OpenX	85073051	June 28, 2010

SCHEDULE II

To

BENCHMARK SOLUTIONS HOLDINGS INC.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

A. U.S. PATENT REGISTRATIONS.

<u>Patent</u>	<u>Reg. No.</u>	<u>Date</u>
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None.

B. U.S. PATENT APPLICATIONS.

<u>Patent Application No.</u>	<u>Serial No.</u>	<u>Date</u>
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None.

C. U.S. PATENT LICENSES.

<u>Name of Agreement</u>	<u>Date of Agreement</u>	<u>Parties</u>
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None.

ANNEX A

to

SCHEDULE II

to

BENCHMARK SOLUTIONS HOLDINGS INC.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

PATENT REGISTRATIONS

<u>Patent</u>	<u>Reg. No</u>	<u>Reg. Date</u>
<u>None.</u>		

ANNEX B

to

SCHEDULE II

to

BENCHMARK SOLUTIONS HOLDINGS INC.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

PATENT APPLICATIONS

<u>Patent</u>	<u>Application Number</u>	<u>Date</u>
<u>None.</u>		

SCHEDULE III

To

BENCHMARK SOLUTIONS HOLDINGS INC.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

A. U.S. COPYRIGHT REGISTRATIONS.

<u>Copyright</u>	<u>Reg. No.</u>	<u>Date</u>
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None.

B. U.S. COPYRIGHT APPLICATIONS.

<u>Copyright</u>	<u>Application No.</u>	<u>Date</u>
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None.

C. U.S. COPYRIGHT LICENSES.

<u>Name of Agreement</u>	<u>Date of Agreement</u>	<u>Parties</u>
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None.

ANNEX A

to

SCHEDULE III

to

BENCHMARK SOLUTIONS HOLDINGS INC.

INTELLECTUAL PROPERTY SECURITY AGREEMENT

COPYRIGHT REGISTRATIONS

<u>Copyright</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
<u>None.</u>		