

TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1
Stylesheet Version v1.2

ETAS ID: TM320627

SUBMISSION TYPE:	NEW ASSIGNMENT		
NATURE OF CONVEYANCE:	NUNC PRO TUNC ASSIGNMENT		
EFFECTIVE DATE:	10/01/2014		
CONVEYING PARTY DATA			
Name	Formerly	Execution Date	Entity Type
Adaptive Path, LLC		10/01/2014	LIMITED LIABILITY COMPANY: CALIFORNIA
Adaptive Path, Inc		10/01/2014	CORPORATION: CALIFORNIA
RECEIVING PARTY DATA			
Name:	Capital One National Association		
Street Address:	1680 Capital One Drive		
Internal Address:	13th Floor		
City:	McLean		
State/Country:	VIRGINIA		
Postal Code:	22102		
Entity Type:	Subsidiary of Capital One Financial Corporation: UNITED STATES		
PROPERTY NUMBERS Total: 2			
Property Type	Number	Word Mark	
Registration Number:	3224102	ADAPTIVE PATH	
Registration Number:	3238979	ADAPTIVE PATH	
CORRESPONDENCE DATA			
Fax Number:	8042846924		
<i>Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent using a fax number, if provided; if that is unsuccessful, it will be sent via US Mail.</i>			
Phone:	8042841155		
Email:	becky.dimmett@capitalone.com		
Correspondent Name:	Capital One National Association		
Address Line 1:	15000 Capital One Drive		
Address Line 2:	12077-0270 / Becky Dimmett		
Address Line 4:	Richmond, VIRGINIA 23238		
ATTORNEY DOCKET NUMBER:	ADAPTIVE PATH ASSIGNMENTS		
NAME OF SUBMITTER:	DENNIS BROWNE		
SIGNATURE:	/dennisbrowne/		
DATE SIGNED:	10/20/2014		

CH \$65.00 3224102

Total Attachments: 7

source=Executed Trademark Assignment_Adaptive Path LLC_Adaptive Path_to_Capital One National Association_10.01.2014#page1.tif

source=Executed Trademark Assignment_Adaptive Path LLC_Adaptive Path_to_Capital One National Association_10.01.2014#page2.tif

source=Executed Trademark Assignment_Adaptive Path LLC_Adaptive Path_to_Capital One National Association_10.01.2014#page3.tif

source=Executed Trademark Assignment_Adaptive Path LLC_Adaptive Path_to_Capital One National Association_10.01.2014#page4.tif

source=Executed Trademark Assignment_Adaptive Path LLC_Adaptive Path_to_Capital One National Association_10.01.2014#page5.tif

source=Executed Trademark Assignment_Adaptive Path LLC_Adaptive Path_to_Capital One National Association_10.01.2014#page6.tif

source=Executed Trademark Assignment_Adaptive Path LLC_Adaptive Path_to_Capital One National Association_10.01.2014#page7.tif

TRADEMARK ASSIGNMENT

This TRADEMARK ASSIGNMENT (this "Trademark Assignment") is made and entered into as of October 10, 2014, by and among Adaptive Path, LLC, a Delaware limited liability company ("LLC Seller"), Adaptive Path, Inc., a Delaware corporation ("Seller Corp.," and together with LLC Seller, "Assignors") and Capital One, National Association, a national banking association ("Assignee," and together with Assignors, the "Parties", and each a "Party"). All capitalized terms used in this Trademark Assignment but not otherwise defined herein shall have the meanings ascribed to them in the Purchase Agreement (as defined below). All capitalized terms not otherwise defined herein, as used in this Trademark Assignment, shall have the respective meanings ascribed to such terms in the Purchase Agreement.

WHEREAS, Assignors and Assignee have entered into that certain Asset Purchase Agreement dated as of October 1, 2014 (the "Purchase Agreement");

WHEREAS, Assignors are the sole owners of the trademarks set forth on Exhibit A (the "Marks"); and

WHEREAS, pursuant to the Purchase Agreement, Assignors agreed to sell, convey, assign, transfer, and deliver to Assignee, and Assignee agreed to purchase and acquire from Assignors, all right, title and interest in and to the Acquired Assets, including but not limited to the Marks, and Assignee desires to acquire the Marks.

NOW, THEREFORE, in consideration of the covenants and mutual agreements set forth in this Trademark Assignment and in the Purchase Agreement and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignors and Assignee agree as follows:

1. Assignment of Assigned Trademarks. Subject to the terms and conditions of the Purchase Agreement, Assignors hereby irrevocably sell, convey, assign, transfer and deliver to Assignee, its successors and assigns, without any reservation of rights, and Assignee hereby purchases and accepts from Assignors, all of Assignors' right, title, and interest in and to the Marks for all of the goods and/or services included in the relevant applications or registrations or in conjunction with which the Marks are used, along with all income, royalties, damages and payments with respect thereto earned or accrued (including damages and payments for infringements thereof, and the right to sue and recover for infringements thereof).

2. Further Action. Assignors agree to promptly execute and deliver at the reasonable request of Assignee, without demanding any further consideration, all papers, instruments, and assignments, and to perform other reasonable acts Assignee may reasonably request in order to vest all right, title, and interest in and to the Marks over to Assignee, and to provide evidence to support any of the foregoing in the event such evidence is deemed reasonably necessary by Assignee.

3. Terms of Asset Purchase Agreement. Nothing in this Trademark Assignment, express or implied, is intended to or shall be construed to modify, expand or limit in any way the terms of the Purchase Agreement. To the extent that any provision of this Trademark Assignment conflicts or is inconsistent with the terms of the Purchase Agreement, the terms of the Purchase Agreement shall govern and control.

4. Recordation and Registration of Agreement. Assignee may record this Trademark Assignment with the United States Patent and Trademark Office or with any other national trademark office

in any jurisdiction in which any Mark has been registered or applied for registration. All costs associated with any such registrations or recordations shall be paid by Assignee.

5. Notice. All notices, requests, demands, claims and other communications hereunder shall be in writing and shall be deemed duly given (a) when delivered personally to the recipient, (b) one (1) business day after being sent to the recipient by reputable overnight courier service (charges prepaid), (c) one (1) business day after being sent to the recipient by facsimile transmission if the sender on the same day sends a confirming copy of such notice by a reputable overnight courier service (charges prepaid) or (d) four (4) business days after being mailed to the recipient by certified or registered mail, return receipt requested and postage prepaid, and addressed to the intended recipient as set forth below:

If to Assignors or any Assignor:

c/o Adaptive Path, LLC (d/b/a Adaptive Path)
Pier 1, Bay 2
San Francisco, California 94111
Attn: Chief Executive Officer
Facsimile: (415) 495-8276

With a copy to:

Cooley LLP
3175 Hanover St.
Palo Alto, CA 94304
Attn: Craig Menden
Facsimile: 650-849-7400

If to Assignee:

Capital One, National Association
c/o Capital One Services, LLC

1680 Capital One Drive
13th Floor
McLean, VA 22102
Attn: Executive Vice President, Corporate Development
Facsimile: (703) 720-1094

With a copy to:

Wachtell, Lipton, Rosen & Katz
51 W. 52nd St.
New York, NY 10019
Attn: Matthew M. Guest, Esq.
Facsimile: (212) 403-2000

and:

Capital One Financial Corporation
8000 Towers Crescent Drive
16th Floor
Vienna, VA 22182
Attn: Chief Counsel, Transactions

Any Party may change the address to which notices, requests, demands, claims and other communications hereunder are to be delivered by giving the other Party notice in the manner herein set forth.

6. Governing Law; Venue.

(a) THIS TRADEMARK ASSIGNMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF DELAWARE, WITHOUT GIVING EFFECT TO APPLICABLE PRINCIPLES OF CONFLICTS OF LAW TO THE EXTENT THAT THE APPLICATION OF THE LAWS OF ANOTHER JURISDICTION WOULD BE REQUIRED THEREBY.

(b) Each Party to this Trademark Assignment (i) hereby agrees that any litigation, proceeding or other legal action brought in connection with or relating to this Trademark Assignment or any matters contemplated hereby or thereby shall be brought exclusively in a court of competent jurisdiction location within Wilmington, Delaware, whether a state or federal court, and shall not be brought in any court or forum outside Wilmington, Delaware; (ii) hereby consents and submits to personal jurisdiction in connection with any such litigation, proceeding or action in any such court described in clause (i) of this subsection 6(b) and to service of process upon it in accordance with the rules and statutes governing service of process; (iii) hereby waives to the full extent permitted by Law any objection that it may now or hereafter have to the venue of any such litigation, proceeding or action in any such court or that any such litigation, proceeding or action was brought in an inconvenient forum; (iv) hereby agrees as an alternative method of service of process in such litigation, proceeding or action to the mailing of copies thereof to such Party at its address set forth in Section 5; (v) hereby agrees that any service made as provided herein shall be effective and binding service in every respect; and (vi) hereby agrees that nothing herein shall affect the rights of any Party to effect service of process in any other manner permitted by applicable Law.

7. Waiver of Jury Trial. EACH PARTY ACKNOWLEDGES AND AGREES THAT ANY CONTROVERSY WHICH MAY ARISE UNDER THIS TRADEMARK ASSIGNMENT IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES, AND THEREFORE EACH SUCH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHTS SUCH PARTY MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATED TO THIS TRADEMARK ASSIGNMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT IT: (A) UNDERSTANDS AND HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER; (B) MAKES THIS WAIVER VOLUNTARILY; (C) NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER; AND (D) HAS BEEN INDUCED TO ENTER INTO THIS TRADEMARK ASSIGNMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVER IN THIS SECTION 7.

8. Specific Performance. Each Assignor acknowledges and agrees that in the event of any actual or threatened breach of the provisions of this Trademark Agreement by any Assignor, irreparable damage will occur, no adequate remedy at Law would exist and damages would be difficult to determine, and in addition to any other remedies available for such breach or threatened breach set forth in Article 9 of the Purchase Agreement, Assignee shall have the right to enforce its rights and each Assignor's obligations under this Trademark Agreement by an action or actions for specific performance or injunction in order to enforce or prevent any violations of (whether anticipatory, continuing or future) any of the provisions of this Trademark Agreement, without the necessity of proving irreparable harm or actual damages. The Parties agree to not seek and agree to waive any requirement for the securing or posting of a bond in connection with the seeking or obtaining of any relief pursuant to this Section 8.

9. No Third-Party Beneficiaries. This Trademark Assignment shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns and shall be binding upon Assignors and Assignee, their respective successors, assigns, and other legal representatives.

10. Entire Agreement; Amendment; Waiver. This Trademark Assignment (including Exhibit A hereto), the Purchase Agreement, that certain Assignment and Assumption Agreement and Bill of Sale,

that certain Escrow Agreement and that certain Patent Assignment by and among the Parties hereto dated the even date herewith, contain the entire agreement among the Parties with respect to the subject matter hereof and supersedes all prior agreements and understandings, oral or written, with respect to such matters. Any provision of this Trademark Assignment may be amended or waived if, and only if, such amendment or waiver is in writing and signed (i) in the case of an amendment, by Assignors and Assignee and (ii) in the case of a waiver, by the Party against whom the waiver is to be effective. No failure or delay by either Party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

11. Construction. Each of Assignors and Assignee acknowledges that it has participated in the drafting of this Trademark Assignment, and any applicable rule of construction to the effect that ambiguities are to be resolved against the drafting party will not be applied in connection with the construction or interpretation of this Trademark Assignment.

12. Counterparts. This Trademark Assignment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

13. Other. The following Sections of the Purchase Agreement are incorporated into this Trademark Agreement by reference, to be applied and construed consistently with the application of such Sections in the Purchase Agreement as if such Sections were set forth herein: Section 11.13 (Severability) and Section 11.14 (Expenses).

[signature page follows]

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

ASSIGNORS:

ADAPTIVE PATH, LLC

By: _____
DocuSigned by:
Brandon Schauer
E601804902A04F4...

Name: Brandon Schauer
Title: President and Chief Executive Officer

ADAPTIVE PATH, INC.

By: _____
DocuSigned by:
Brandon Schauer
E601804902A04F4...

Name: Brandon Shauer
Title: President and Chief Executive Officer

[Signature Page to Trademark Assignment]

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

ASSIGNEE:

**CAPITAL ONE, NATIONAL
ASSOCIATION**

By: 

Name: Frank G. LaPrade III

Title: Chief Enterprise Services Officer

[Signature Page to Trademark Assignment]

**TRADEMARK
REEL: 005384 FRAME: 0465**

**EXHIBIT A
TRADEMARKS**

- The Adaptive Path name: Reg. No.: 3,224,102, registered Apr. 3, 2007 to LLC Seller at the prior address of 363 Brannan Street in San Francisco
- The Adaptive Path mark: Reg. No.: 3,238,979, registered May 8, 2007 to LLC Seller at the prior address of 363 Brannan Street in San Francisco