

## TRADEMARK ASSIGNMENT COVER SHEET

Electronic Version v1.1  
Stylesheet Version v1.2

ETAS ID: TM501863

<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	ASSIGNMENT OF THE ENTIRE INTEREST AND THE GOODWILL		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Massachusetts Institute of Technology		11/26/2018	Corporation: MASSACHUSETTS
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Code-To-Learn Foundation		
<b>Doing Business As:</b>	Scratch Foundation		
<b>Street Address:</b>	7315 Wisconsin Avenue		
<b>Internal Address:</b>	4th Floor		
<b>City:</b>	West Bethesda		
<b>State/Country:</b>	MARYLAND		
<b>Postal Code:</b>	20814		
<b>Entity Type:</b>	Corporation: DELAWARE		
<b>PROPERTY NUMBERS Total: 1</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
<b>Registration Number:</b>	5053133	SCRATCH	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>			
<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>			
<b>Phone:</b>	2027197000		
<b>Email:</b>	dweslow@wileyrein.com		
<b>Correspondent Name:</b>	David E. Weslow		
<b>Address Line 1:</b>	1776 K Street, NW		
<b>Address Line 4:</b>	Washington, D.C. 20006		
<b>ATTORNEY DOCKET NUMBER:</b>	88473.0001		
<b>NAME OF SUBMITTER:</b>	David E. Weslow		
<b>SIGNATURE:</b>	/David E. Weslow/		
<b>DATE SIGNED:</b>	12/13/2018		
<b>Total Attachments: 10</b>			
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## SCRATCH TRADEMARK AND COPYRIGHT AGREEMENT

This Trademark and Copyright Assignment Agreement (the "Agreement") is made and effective as of NOV. 26, 2018 ("Effective Date") by and between the MASSACHUSETTS INSTITUTE OF TECHNOLOGY, a nonprofit research institution having a principal address at 77 Massachusetts Avenue, Cambridge, MA 02139 ("MIT") and the CODE-TO-LEARN FOUNDATION d/b/a Scratch Foundation, a Delaware corporation with a principal address at 7315 Wisconsin Ave., 4th floor, West Bethesda, MD 20814 (the "Foundation"). MIT and the Foundation may be referred to individually as a "Party" or collectively as the "Parties."

### RECITALS

**WHEREAS**, MIT owns certain rights and title to certain copyrightable works known as "Scratch" and as further described and listed in Schedule 1 (the "Works"); and

**WHEREAS**, MIT has registered the SCRATCH trademark and/or service mark listed on Schedule 2 attached hereto and made a part hereof (collectively, the "Marks");

**WHEREAS**, it is MIT's intention to assign and transfer to the Foundation its interest in the Works and Marks, subject to the licenses which have been previously granted to third parties; and

**WHEREAS**, the Foundation desires to purchase or acquire all of MIT's right, title, and interest in and to the Works and Marks; and

**WHEREAS**, the Foundation has represented to MIT that it will commit itself to diligently supporting, promoting, and disseminating the Works so that the public shall so benefit; and

**WHEREAS**, each Party is duly authorized and capable of entering into this Agreement.

**NOW, THEREFORE**, in consideration of the covenants and premises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

#### 1. ASSIGNMENT OF WORKS.

Subject to the existing licenses in effect as of the Effective Date and the license rights granted to MIT by the Foundation pursuant to this Agreement, as of the Effective Date, MIT hereby transfers, conveys, assigns, and delivers to the Foundation, and the Foundation accepts and assumes all of MIT's right, title and interest (including, specifically, copyright) in and to the following:

- (a) the Works as referred to in Schedule 1 hereto;

- (b) all income, royalties, and damages hereafter due or payable to MIT with respect to the Works including, without limitation, damages and payments for infringements of the Works; and
- (c) all rights under the copyrights in the Works to enforce for infringements of the Works pursuant to Section 10 of this Agreement.

## **2. ASSIGNMENT OF MARKS.**

Subject to the existing licenses in effect as of the Effective Date and the license rights granted to MIT by the Foundation pursuant to this Agreement, as of the Effective Date, MIT hereby transfers, conveys, assigns, and delivers to the Foundation, and the Foundation accepts and assumes MIT's right, title, and interest in and to the following:

- (a) the Marks referred to in Schedule 2 hereto;
- (b) the registrations and applications for registrations each such Mark;
- (c) the goodwill of the educational mission connected with and symbolized by each such Mark;
- (d) all income, royalties, and damages hereafter due or payable to MIT with respect to the Marks including, without limitation, damages and payments for infringements and misappropriations of the Marks; and
- (e) all rights under trademark laws to enforce for infringements, likelihood of confusion, dilution and/or misappropriations of the Marks pursuant to Section 10 of this Agreement.

The parties agree and acknowledge that the assignment of the Marks by MIT to the Foundation does not preclude MIT from making true factual statements about MIT's use of the Works in connection with MIT's research, teaching and other academic purposes.

**3. ACKNOWLEDGMENT OF EXISTING THIRD PARTY RIGHTS.** The Parties agree and acknowledge that, prior to the Effective Date, components of the Works have been made available, including to members of the MIT Media Lab, under the following open source licenses: GNU General Public License v2.0, BSD 3-Clause "New" or "Revised" License, the Scratch Source Code License and Creative Commons Attribution-ShareAlike 2.0 Generic License. All such existing licenses shall remain in full force and effect.

## **4. LICENSE GRANT BACK TO MIT.**

Effective upon MIT's assignment of the Works pursuant to Section 1 above, the Foundation hereby grants to MIT a worldwide, non-exclusive, royalty-free, fully-paid up

perpetual license and right to use, display, reproduce, transmit, modify, perform, distribute and create derivative works of the Works for research, teaching and other academic purposes.

Effective upon MIT's assignment of the Marks pursuant to Section 2 above, for a period of one year thereafter ("Marks License Term") and subject to the requirements of this Section 4, the Foundation hereby grants to MIT a revocable, non-exclusive, non-transferable, non-assignable, royalty-free, worldwide, license to use the Marks solely in connection with events, projects and publications for MIT's research, teaching and academic purposes. The License Term will automatically renew for additional successive one-year terms unless both Parties agree in writing not to renew at least 30 days before the end of the then-current term. MIT will not use the Marks in connection with any activities other than MIT's research, teaching and academic purposes without prior written approval of the Foundation.

MIT's use of the Marks must conform to the Foundation's reasonable usage standards as communicated by the Foundation to MIT from time to time. The nature and quality of all events, projects and publications in which MIT uses the Marks must conform to the level of quality historically associated with MIT. MIT will comply with all applicable laws, regulations or rules of any governmental body, agency, or other body with competent authority relating to its use of the Marks. MIT will provide to Foundation copies of any correspondence with and any documents filed with or received from any such body.

#### **5. CONSIDERATION.**

As consideration for the assignment of the Works and Marks made by MIT under this Agreement, the Foundation promises to pay MIT the amount of one dollar (\$1.00), upon the Effective Date.

#### **6. FOUNDATION'S REPRESENTATIONS AND WARRANTIES.**

The Foundation hereby represents and warrants to MIT that it:

- (a) has full power and authority to enter into this Agreement;
- (b) has sufficient resources to complete the transaction contemplated by this Agreement and the authority to commit such resources for the purposes of such transaction; and
- (c) shall continue to make the Works broadly available to third parties under open source licenses, including, but not limited to schools, non-profit educational organizations and other academic institutions.

The Foundation agrees to immediately notify MIT in writing if any facts or circumstances arise that would make any of the representations in this Agreement inaccurate.

**7. MIT'S REPRESENTATIONS AND WARRANTIES.** MIT represents and warrants, to the best of the knowledge of its Technology Licensing Office, as of the Effective Date :

- (a) MIT is the owner of the right, title, and interest in and to the Works and the Marks, subject to the existing licenses in effect as of the Effective Date;
- (b) MIT has the right and authority to enter into this Agreement;
- (c) MIT has not previously granted any rights or licenses in or to the Works other than to members of the MIT Media Lab and others under the GNU General Public License v2.0, BSD 3-Clause "New" or "Revised" License, the Scratch Source Code License and Creative Commons Attribution-ShareAlike 2.0 Generic License as described in Section 3; and
- (d) MIT has obtained written assignment agreements from all individuals associated with MIT who have either created and/or contributed to the Works and/or the Marks to the extent such individuals are under an obligation to do so pursuant to MIT policy, and such agreements assign all such individuals' intellectual property rights in and to the Works and the Marks.

**8. DISCLAIMER OF WARRANTIES BY MIT.**

EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, MIT: (A) MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND CONCERNING THE WORKS OR MARKS OR ANY COPYRIGHTS AND TRADEMARK RIGHTS RELATED THERETO, AND HEREBY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND (B) MAKES NO REPRESENTATIONS OR WARRANTIES THAT THE USE OF THE WORKS OR MARKS, OR ANY ELEMENT THEREOF, WILL NOT INFRINGE ANY COPYRIGHT, TRADEMARK, SERVICE MARK OR OTHER INTELLECTUAL PROPERTY RIGHTS OF MIT OR THIRD PARTIES.

**9. RELEASE AND ASSUMPTION OF LIABILITY.**

THE FOUNDATION HEREBY RELEASES MIT, ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES AND AFFILIATES FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, EXPENSES OR OTHER LIABILITY THAT MAY ARISE FROM OR IN CONNECTION WITH THE MARKS AND THE WORKS AS OF THE EFFECTIVE DATE OF THIS AGREEMENT, AND, AS OF THE EFFECTIVE DATE, HEREBY ASSUMES ANY AND ALL CLAIMS, LOSSES, DAMAGES, EXPENSES OR OTHER LIABILITY RELATED TO THE MARK AND THE WORKS. FURTHERMORE, IT SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS, MIT,

ITS TRUSTEES, DIRECTORS, OFFICERS, EMPLOYEES AND AFFILIATES (THE "INDEMNITEES") AGAINST ANY LIABILITY, DAMAGE, LOSS OR EXPENSE (INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES) INCURRED BY OR IMPOSED UPON ANY INDEMNITEES IN CONNECTION WITH ANY SUCH THIRD PARTY CLAIMS, SUITS, ACTIONS, DEMANDS OR JUDGMENTS ARISING OUT OF OR RELATED TO THIS AGREEMENT OR ITS USE OF THE MARKS OR WORKS IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT; PROVIDED THAT THE FOREGOING OBLIGATIONS OF FOUNDATION SHALL NOT APPLY TO ANY CLAIMS, SUITS, ACTIONS, DEMANDS OR JUDGMENTS ARISING OUT OF OR RELATED MIT'S BREACH OF ANY OF ITS REPRESENTATIONS, WARRANTIES OR COVENANTS UNDER THIS AGREEMENT.

#### **10. DEFENSE OF INFRINGEMENT CLAIMS.**

The Foundation will have the sole right to conduct the defense of any third party claim or action alleging that the Works or the Marks infringe upon any patent, copyright, trademark, trade secret or other intellectual property right of any third party ("Claim") and all negotiations for the settlement or compromise of such Claim. In the event that a Claim results in a suit, then the Foundation's sole obligation to MIT will be to keep MIT reasonably apprised of all developments in the suit; however, prior to commencing any suit, the Foundation shall consider in good faith the views of MIT and potential effects on the public interest in making its decision whether to sue. Thereafter, the Foundation will seek MIT's input on any substantive submissions or positions taken in the litigation regarding the ownership of the Works or the Marks as applicable.

#### **11. DOCUMENTATION AND ASSISTANCE.**

MIT will, as soon as is reasonably possible following a request from the Foundation, provide the Foundation with a copy of any documentation (in any format) relating to the Works and the Marks for the Foundation's own use, to meet record-keeping requirements of the Foundation, or to allow the Foundation to assert its rights granted pursuant to this Agreement. MIT will also, on request, and as applicable sign, execute, make and do all such documents and acts that the Foundation may reasonably require to obtain, register maintain and vest in the name of the Foundation alone the Works and the Marks and when so obtained or vested to renew and restore the same.

#### **12. USE OF MIT'S NAME.**

The Foundation and its affiliates shall not use the name of "Massachusetts Institute of Technology," "Lincoln Laboratory" or any variation, adaptation, or abbreviation thereof, or of any of its trustees, officers, faculty, students, employees, or agents, or any trademark owned by MIT, or any terms of this Agreement in any promotional material or other public announcement or disclosure without the prior written consent of MIT, which consent MIT may withhold in its sole discretion. The foregoing notwithstanding, without the consent of MIT, the Foundation may make factual historical statements regarding the original

development of Scratch at the MIT Media Lab, provided no such statement is made in advertising, marketing, or promotional materials or could be construed as an endorsement by MIT.

**13. SUCCESSORS AND ASSIGNS.**

All references in this Agreement to the Parties shall be deemed to include, as applicable, a reference to their respective successors and assigns. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Parties.

**14. NO IMPLIED WAIVER.**

The failure of either Party to insist on strict performance of any covenant or obligation under this Agreement, regardless of the length of time for which such failure continues, shall not be deemed a waiver of such Party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation under this Agreement shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation.

**15. NOTICE.**

Any notice or other communication provided for herein or given hereunder to a Party hereto shall be in writing and shall be given in person, by overnight courier, or by mail (registered or certified mail, postage prepaid, return receipt requested) to the respective Party as follows:

If to MIT:

255 Main Street  
NE 18-501  
Cambridge, MA 02142

If to the Foundation:

Scratch Foundation  
7315 Wisconsin Ave., 4th floor  
West Bethesda, MD 20814

**16. GOVERNING LAW.**

This Agreement shall be governed by the laws of the Commonwealth of Massachusetts.

**17. COUNTERPARTS/ELECTRONIC SIGNATURES.**

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. For



purposes of this Agreement, use of a facsimile, e-mail, or other electronic medium shall have the same force and effect as an original signature.

**18. SEVERABILITY.**

Whenever possible, each provision of this Agreement, will be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal, or unenforceable in any respect under any applicable law or rule in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other provision or any other jurisdiction, but this Agreement will be reformed, construed, and enforced in such jurisdiction as if such invalid, illegal, or unenforceable provisions had never been contained herein.

**19. ENTIRE AGREEMENT.**

This Agreement, together with Schedule 1 and Schedule 2, constitutes the final, complete, and exclusive statement of the agreement of the Parties with respect to the subject matter hereof, and supersedes any and all other prior and contemporaneous agreements and understandings, both written and oral, between the Parties.

**20. HEADINGS.**

Headings used in this Agreement are provided for convenience only and shall not be used to construe meaning or intent.

[SIGNATURE PAGE FOLLOWS]

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

**MIT**

**MASSACHUSETTS INSTITUTE OF TECHNOLOGY**

By: 

Name: John H. Turner, Jr.  
Title: Senior Associate Director  
Technology Licensing Office

**FOUNDATION**

**CODE-TO-LEARN FOUNDATION**

By: M Resnick  
Name: Mitchel Resnick  
Title: Chair

**SCHEDULE 1**

**LIST OF WORKS**

MIT Case No. 18710T – Scratch Blocks: The Scratch 3.0 (current version as of the Effective Date) programming language & editor

MIT Case No. 12644T – ScratchR: The version of web-based community platform that is currently (as of the Effective Date) hosted at "scratch.mit.edu"

**SCHEDULE 2**

**TRADEMARK AND/OR SERVICE MARK**

<b>Trademark / Service Mark</b>	<b>Registration / Application Number</b>	<b>Date of Filing / Date of Registration</b>
SCRATCH	5053133 / 86842460	December 8, 2015/ October 4, 2016