

11-06-2002

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005)



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

Tab settings

102273219

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): Cybec Pty Ltd.

- Individual(s), Association, General Partnership, Limited Partnership, Corporation-State, Other Australia Limited Company Organized

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

3. Nature of conveyance:

- Assignment, Merger, Security Agreement, Change of Name, Other Business acquisition

Execution Date: December 9, 1998

2. Name and address of receiving party(ies)

Name: Computer Associates International, Inc. Address:

Street Address: One Computer Associates Plaza City: Islandia State: NY Zip: 11749

- 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)

B. Trademark Registration No.(s)

2011913

Additional number(s) attached Yes No

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

Name: Matthew W. Walch

Internal Address: 5800 Sears Tower

Street Address: 233 S. Wacker Drive

City: Chicago State: IL Zip: 60606

6. Total number of applications and registrations involved: 1

7. Total fee (37 CFR 3.41): \$ 40.00

- Enclosed, Authorized to be charged to deposit account* any over-/under-payment

8. Deposit account number:

50-1125

(Attach duplicate copy of this page if paying by deposit account)

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.

Matthew W. Walch Name of Person Signing

Signature

10/29/02 Date

Total number of pages including cover sheet, attachments, and document: 18

All documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

11/06/2002 6TOM11 00000060 2011913

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40.00 CP

Recordation Form Cover Sheet
Attachment

Vet Anti-Virus Software Pty Ltd., Australia Limited Company Organized

CYBEC PTY LIMITED
(Vendor)

and

VET ANTI-VIRUS SOFTWARE PTY LIMITED
(Vendor)

and

ROGER HAMLIN STAFFORD RIORDAN and SHIRLEY ANNE RIORDAN
(Guarantors)

and

COMPUTER ASSOCIATES INTERNATIONAL, INC
(Purchaser)

BUSINESS ACQUISITION AGREEMENT

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Sydney
Ref: FJC 1328524 AJP
Doc No: standard

TRADEMARK
REEL: 002611 FRAME: 0141

BUSINESS ACQUISITION AGREEMENT

AGREEMENT dated *December 9,* 1998 between:

1. **CYBEC PTY LIMITED** (ACN 007 229 361) registered in Victoria of 1601 Malvern Road, Glen Iris, Victoria (*Cybec*);
2. **VET ANTI-VIRUS SOFTWARE PTY LIMITED** (ACN 075 244 610) registered in Victoria of 388 Raymond Street, Sales, Victoria (*VET*);
3. **ROGER HAMLIN STAFFORD RIORDAN** and **SHIRLEY ANNE RIORDAN** both of 15 Regent Street, East Brighton, Victoria (collectively *Riordan*);
4. **COMPUTER ASSOCIATES INTERNATIONAL, INC** a Delaware Corporation having its principal place of business at One Computer Associates Plaza, Islandia, New York (the *Purchaser*)

RECITALS

- A. The Vendor carries on the Business in the Territory.
- B. The Vendor has agreed to sell and the Purchaser, at the request of the Guarantor, has agreed to buy the Business on the terms set out below.

IT IS AGREED as follows.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Accounts means the accounts of the Vendor in respect of the Business as at and for the period to the Balance Date, copies of which are included in the Disclosure Material.

Approvals means each Authorisation in respect of the Business, as listed in Schedule 11.

Assets means the assets of the Business described in Clause 7.1, but does not include the Excluded Assets.

Authorisation includes:

- (a) any authorisation, approval, consent, licence, permit, franchise, permission, notification, filing, registration, lodgment, agreement, notarisation, certificate, authority, resolution, direction, declaration or exemption from, by or with a Governmental Agency; and
- (b) in relation to anything which will be prohibited or restricted in whole or part by law if a Governmental Agency intervenes or acts in any way within a specified period after lodgment, any filing, registration or notification.

Balance Date means 31 October 1998.

Business means the business of the Vendor of designing, developing, marketing and licensing computer programs and all operations incidental thereto.

Business Day means a day other than a Saturday or Sunday on which the majority of trading banks are open for business in Melbourne, Victoria and Islandia, New York.

Business Name means each registered business name included in the Intellectual Property.

Claims means claims, demands, actions, proceedings, judgments, liabilities, loss, damages, costs and expenses (including legal costs and disbursements) whatever and in any way arising.

Completion means completion of the sale and purchase of the Assets under this Agreement.

Completion Date means the later of 7 January 1999 and the date 5 Business Days after the satisfaction or waiver of the conditions precedent in Clause 2.

Confidential Information includes know-how, trade secrets, technical processes, information relating to products, finances, contractual arrangements with customers or suppliers and other information which by its nature, or by the circumstances of its disclosure to the holder of the information, is or could reasonably be expected to be regarded as confidential.

Contracts means all written and unwritten contracts (other than the Plant Leases and the Property Leases) entered into by or on behalf of the Vendor in the course of the Business which are current at the date of this Agreement including, without limitation, the Customer Contracts, the Distributor Contracts and the Primary Contracts.

Customer Contracts means all licence, lease and maintenance, consulting, implementation, systems integration and professional service agreements whereby the Vendor has authorised any third party to use the Products (other than third parties authorised to use the Products pursuant to Distributor Contracts) and all agreements under which the Vendor is performing (or has agreed to perform) any consulting, implementation, systems integration or other professional services as at the Completion Date specified in Part B of Schedule 5.

Customer List means a list of all current and former customers of the Products or professional services of the Vendor.

Cybec Employee Share Acquisition Scheme means any operative share acquisition scheme for the Employees.

Deed of Charge means the deed of charge dated 24 October 1997 granted by Cybec in favour of Commonwealth Bank of Australia registered with the Australian Securities and Investment Commission and having registration number 618381.

Disclosure Material means the material so entitled and signed for identification by the parties on or prior to the date of this Agreement.

Distributor means any counterparty to a Distributor Contract.

Distributor Contracts means the software distribution agreements under which the Vendor has authorised third parties to distribute or market the Products, which may be designated as distribution, VAR, reseller, remarketer, OEM or other agreements relating to the Products existing as at the Completion Date and as described in Part C of Schedule 5 including any joint venture agreement involving the Vendor and one or more other parties for any of the foregoing purposes.

Employee Retention Plan means the plan established in accordance with Clause 12.

Employees means those employees:

- (a) listed in Part A of Schedule 12; and
- (b) who are employed in the Business after the date of this Agreement in accordance with Clause 4.1,

who are still employed by the Vendor when the Purchaser's offer of employment is made under Clause 11.2.

Encumbrance means an interest or power:

- (a) reserved in or over any interest in any asset including, without limitation, any retention of title; or
- (b) created or otherwise arising in or over any interest in any asset under a bill of sale, mortgage, charge, lien, pledge, trust or power, by way of security for the payment of debt or any other monetary obligation or the performance of any other obligation and whether existing or agreed to be granted or created.

Excluded Assets means the assets referred to in Clause 7.2.

Governmental Agency means any:

- (a) government, or governmental, semi governmental or judicial entity or authority; or
- (b) minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government.

It also includes any regulatory organisation established under statute or any stock exchange.

Guarantor means each of Riordan, jointly and severally.

Intellectual Property means the items specified in Schedule 2 and all other intellectual or industrial property which relate to or are used in connection with the Business, including without limitation:

- (a) any patent, trade mark or service mark, copyright, design, business name, trade secret or Confidential Information; or
- (b) any licence or other right to use or to grant the use of any of them or to be the registered proprietor or user of any of them,

wherever subsisting in the world but excluding any such intellectual property used exclusively in connection with Loop-A-Line.

International Agreement means the agreement between Vet Anti-Virus Software Limited (NZ), Vet Anti-Virus Software Limited (UK), Vet Anti-Virus Software SDN BHD (Malaysia), Vet Information Technology Inc (USA), Cybec, the Guarantors and the Purchaser, to be executed substantially in the form of this Agreement and pursuant to which certain assets (other than Intellectual Property assets) will be transferred for the sum of \$740,000.

Internet Site means the domain name and content of the following internet sites together with all rights in connection therewith:

- (a) vet.com.au (Australia);

- (b) vetavs.com.au (Australia);
- (c) vetavs.com (USA);
- (d) vetit.com (USA);
- (e) vetavs.co.uk (UK);
- (f) vet.com.my (Malaysia);
- (g) vetavs.com.nz (New Zealand).

Inventories means inventories of raw materials, work-in-progress and finished goods held by or in transit to the Vendor for use in the Business together with all advertising materials, fact sheets, and all promotional materials utilized in connection with the making of the Products in the Vendor's possession, custody or control as at the Completion Date.

Key Employee means any of the Employees specified in Part B of Schedule 12.

Leasehold Property means the property described in Part A of Schedule 1.

Liquidation includes liquidation, official management, compromise, receivership, administration, arrangement, amalgamation, reconstruction, winding up, dissolution, assignment for the benefit of creditors, arrangement or compromise with creditors, bankruptcy or death.

Loop-A-Line means the instrument for testing telecommunication cables and sold under the name "Loop-A-Line".

Non-Transferable Approval means each Approval which is not transferable.

Plant and Equipment means the plant and equipment owned and used by the Vendor in the Business, including those items listed in Schedule 3.

Plant Leases means the agreements listed in Schedule 4 for the leasing or hire purchase by the Vendor of plant and equipment and other assets not owned by the Vendor but used in the Business but not including any motor vehicle lease referred to in Clause 7.2(D).

Primary Contracts means the contracts listed in Schedule 5.

Products means all source code and object code (in magnetic and hard copy form) to all past or current versions, including any and all foreign language versions, of all computer software programs of the Vendor (not including Loop-A-Line), including without limitation the software programs described in Schedule 13, whether now in existence or in the development stage.

Product Documentation means all technical documentation pertaining to the Products (including any end user manuals, Product specifications, flow charts, other design documentation, bug lists and any electronic machine-readable version of such manuals) currently in existence or in development, all lists of prices for the Products, a summary of the Vendor's current and planned promotional activity with respect to the Products to the extent that it exists, any and all training or question and answer books pertaining to the Products, and any and all notes, plans and other documentation in existence describing problems, future directions or other matters related to the Products.

Property Leases means the leases or subleases of the Leasehold Property described in Schedule 1.

Purchase Price means the total purchase price for the Assets specified in Clause 7.3.

Purchaser's Nominee means a wholly owned subsidiary of the Purchaser nominated by the Purchaser to acquire any or all of the Assets or to employ any or all of the Transferring Employees.

Purchaser's Fund means the Computer Associates Staff Superannuation Fund being part of the Optimum Superannuation Master Plan managed by Tyndall Life.

Receivables means any amount owing to either or both Vendors as at the Completion Date arising out of the conduct of the Business in the ordinary course.

Related Body Corporate means, in relation to a body corporate, a body corporate which is related to that body corporate within the meaning of section 50 of the Corporations Law.

Retention Sum means the sum of \$5,000,000, and, if any additional sum is added to the retention sum in accordance with Clause 6.3, includes that additional sum.

Retention Sum Agreement means the agreement executed on or before Completion between Cybec, the Purchaser and the Retention Sum Holder in the form of Annexure A.

Retention Sum Holder means Allen Allen and Hemsley.

Secondary Contracts means all Contracts other than Primary Contracts.

Sites means the Leasehold Property.

Subleases means the subleases specified in Part B of Schedule 1.

Tax includes any tax, levy, impost, deduction, charge, rate, duty, compulsory loan or withholding which is levied or imposed by a Governmental Agency, and any related interest, penalty, charge, fee or other amount.

Territory means the world.

Transferring Employees means those Employees of the Vendor who accept the Purchaser's offer of employment made under Clause 11.2.

Vendor means Cybec and VET or either of them, as the case requires.

Vendor's Certificate means the certificate to be delivered by the Vendor under Clause 4.4.

Vendor's Fund means each of the following funds:

- (a) Legal & General Super Select;
- (b) Legal & General Super Easy;
- (c) Legal & General Superchoice;
- (d) AMP Super;
- (e) Norwich Union;
- (f) S & S Kay Fund;
- (g) Perpetual Mercury Super Fund;

- (h) Commonwealth SuperOption;
- (i) Mercantile Mutual Life;
- (j) Tower Superannuation; and
- (k) J B Were.

Warranties means the warranties, representations and indemnities by the Vendor and Guarantor set out in this Agreement including, without limitation, the warranties in Schedules 6 and 7.

Year 2000 Compliant means that year 2000 conformity is achieved, as that has been defined by Standards Australia/Standards New Zealand; namely that neither performance nor functionality is affected by dates prior to, during or after the year 2000. In particular:

- Rule 1: No value for current date will cause any interruption in operation.
- Rule 2: Date-based functionality must behave consistently for dates before, prior to and after year 2000.
- Rule 3: In all interfaces and data storage, the century in any date must be specified either explicitly or by unambiguous algorithms or inferencing rules.
- Rule 4: Year 2000 must be recognised as a leap year in terms of handling both 29 February and day 366.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules of interpretation apply unless the context requires otherwise.

- (a) The *singular* includes the plural and conversely.
- (b) A *gender* includes all genders.
- (c) Where a *word* or *phrase* is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a *person* includes a body corporate, an unincorporated body or other entity and conversely.
- (e) A reference to a *clause* or *schedule* is to a clause of or schedule to this Agreement.
- (f) A reference to any *party* to this Agreement or any other agreement or document includes the party's successors and permitted assigns.
- (g) A reference to any *agreement* or *document* is to that agreement or document as amended, novated, supplemented, varied or replaced from time to time, except to the extent prohibited by this Agreement or that other agreement or document.
- (h) A reference to any *legislation* or to any *provision* of any legislation includes any modification or re-enactment of it, any legislative provision substituted for it, and all regulations and statutory instruments issued under it.
- (i) A reference to *currency* is to Australian currency.

7. SALE AND PURCHASE

7.1 Sale and purchase

The Vendor will sell and the Purchaser will purchase, either itself or through a nominee in relation to all or some only of, the following assets of the Business on Completion.

- (a) The goodwill of the Business.
- (b) The Plant and Equipment.
- (c) The Products and the Product Documentation.
- (d) The Intellectual Property.
- (e) The benefit of the Contracts.
- (f) The benefit of the Leasehold Property.
- (g) The benefit of the Subleases.
- (h) The benefit of the Plant Leases.
- (i) The Inventories.
- (j) The Internet Site.
- (k) All other assets of either Vendor directly referable to the Business.

7.2 Excluded Assets

The following assets are excluded from sale under this Agreement:

- (a) all intellectual property in or associated with Loop-A-Line including the right to receive any royalty in connection therewith;
- (b) any loans to directors of the Vendor;
- (c) the Cybec trade mark being registered trade mark number 336244;
- (d) the balance of any bank deposits or other cash on hand;
- (e) the receivables of the Business prior to Completion;
- (f) any motor vehicles owned or leased by the Vendor for or for the benefit of a Guarantor; and
- (g) the distribution agreement between Vet Anti-Virus Software SDN BHD (402657-U) and Turnkey Solutions SDN BHD (429106M) dated 1 August 1998.

7.3 Purchase Price

The purchase price is \$46,060,000.

7.4 Apportionment

The Completion Purchase Price is apportioned as set out in Schedule 8.

SCHEDULE 2
Intellectual Property

(See Attached)

Schedule 2
Intellectual Property

Trade Marks

As per attached listing.

Patents

Nil registered

Designs

Nil registered

Business names

Nil

Others

Rights to third party software

- 1 Agreement for the Development and Distribution Data Advisor Software
- 2 OEM Software License Agreement between Integralis and Cybec Pty Ltd date 22 November 1996 for Vet Mail
- 3 Tenberry Software, Inc - DOS/4GW
- 4 Agreement between Cybec Pty Ltd and Xcess Software Services Pty Ltd for the distribution of the Millennium bug test kit and the Millennium bug upgrade kit.
- 5 Agreement Authorising Cybec Publication and Distribution of Eracom PC-Vault Discretionary Access Control Software Mediator Source Code
- 6 Open Systems Resources, Inc - FDDK
- 7 ZLIB (Freeware)
- 8 Douglas W Sauder - MIME++ -
- 9 PK Solutions - Software capable of removing specified macro module objects from any non-encrypted MICROSOFT ACCESS 97, Microsoft Access 95 or Microsoft Access 2.0 database file.
- 10 Vireo Software - VTOOLSD for Windows 3.x.
- 11 Vireo Software - VTOOLSD for Windows 95.
- 12 Checkpoint - OPSEC Alliance




Domain names

	<u>Name</u>	<u>Country</u>	<u>Expiry</u>
1	vet.com.au	Australia	
2	vetavs.com.au	Australia	
3	vetavs.com	USA	
4	vetit.com	USA	
5	vetavs.co.uk	UK	
6	vet.com.my	Malaysia	
7	vetavs.co.nz	New Zealand	

CYBEC PTY LTD

TRADE MARK PORTFOLIO

7 December 1998






COUNTRY	TRADE MARK	NUMBER	CLASS	GOODS	STATUS	LODGE/MENT	RENEWAL
Australia		567611	9	Anti-viral software, including computer software for use in relation to computer viruses	Registered	19/11/91	19/11/98
Australia	VET	667689	42	Services in Class 42 in relation to the design, development, sale, distribution, hire and licensing of computer hardware and computer software, including computer software for use in relation to computer viruses	Registered	26/07/95	26/07/05
Australia		750539	9 35 42	Computer security software, including anti-viral software Retailing, wholesaling and distribution of computer products, including anti-viral software and other computer security software Design, development, hire and licensing of computer products including anti-viral software and other computer security software	Registered	08/12/97	08/12/07
Belux		904311	9	Computer hardware; computer software, including computer software for use in relation to computer viruses	Examination	06/11/97	

TRADE MARK PORTFOLIO

CYBEC PTY LTD

TRADE MARK PORTFOLIO

7 December 1998

New Zealand		251849	9	Computer hardware; computer software, including computer software for use in relation to computer viruses	Registered	31/07/93	31/07/02
Singapore		696496	9	Computer software, including anti-viral software	Examination	09/07/96	
Spain		2166666	9	Computer security software, including anti-viral software	Pending	05/06/98	
United Kingdom		2028708	9	Computer hardware; computer software, including computer software for use in relation to computer viruses	Registered	28/07/95	28/07/05
United States of America		2011913	9	Computer software for use in relation to computer viruses	Registered	27/10/95	29/10/06

SIGNED on behalf of
CYBEC PTY LIMITED
in the presence of:

A. Grigg
Signature
ANNE GRIEGE
Print name

RHR
Signature
RH RIORDAN
Print name
UD
Office held

SIGNED on behalf of
VET ANTI-VIRUS SOFTWARE PTY LIMITED
in the presence of:

A. Grigg
Signature
ANNE GRIEGE
Print name

RHR
Signature
RH RIORDAN
Print name
UD
Office held

SIGNED by ROGER HAMLINE STAFFORD
RIORDAN
in the presence of:

A. Grigg
Witness
ANNE GRIEGE
Print Name

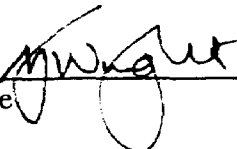
RHR
Signature

SIGNED by SHIRLEY ANNE RIORDAN
in the presence of:

A. Grigg
Witness
ANNE GRIEGE
Print Name

S. Riordan
Signature

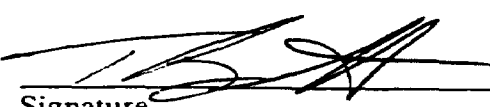
SIGNED on behalf of)
COMPUTER ASSOCIATES INTERNATIONAL,)
INC in the presence of:)



Signature

STEFAN WRIGHT

Print name



Signature

Tommy Bennett

Print name

SVP

Office held