

11-29-2006

HEET

NO. 182 P. 3



103341867

To the Director of the U.S. Pat

had documents or the new address(es) below.

NRD 9-21-06

1. Name of conveying party(ies)

Dassault Systemes Corp.
Dassault Systemes SA

2. Name and address of receiving party(ies)

Name: ImpactXot

Internal Address: n/a

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

3. Nature of conveyance/Execution Date(s):

Execution Date(s) November 3, 2006

- Assignment Merger
- Security Agreement Change of Name
- Joint Research Agreement
- Government Interest Assignment
- Executive Order 9424, Confirmatory License
- Other Release pursuant to License Agreement

Street Address: 22A Great Oaks Blvd.

City: San Jose

State: CA

Country: USA

Zip: 95119

Additional name(s) & address(es) attached? Yes No

4. Application or patent number(s):

This document is being filed together with a new application.

A. Patent Application No.(s)

10/071540
10/071468
10/071472

B. Patent No.(s)

6,868,297

Additional numbers attached? Yes No

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

Name: John B Montgomery, Esq., Montgomery Law Group, LLP

Internal Address: n/a

Street Address: 525 Middlefield Road, Suite 250

City: Menlo Park

State: CA

Zip: 94025

Phone Number: 650 331-7002

Fax Number: 650 331-7001

Email Address: jmontgomery@montgomerylawgroup.com

6. Total number of applications and patents involved: 4

7. Total fee (37 CFR 1.21(h) & 3.41) \$ 180.00

Already paid - see my credit card document id #103320697 or deposit account attached hereto

None required (government interest not affecting title)

8. Payment Information

a. Credit Card Last 4 Numbers _____
Expiration Date _____

b. Deposit Account Number _____

Authorized User Name _____

9. Signature:

[Signature]
Signature

February 1, 2006
Date

THIBAUT DE TERSANT
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 9

Documents to be recorded (including cover sheet) should be faxed to (871) 273-0140, or mailed to: Mail Stop Assignment Recordation Services, Director of the USPTO, P.O.Box 1450, Alexandria, VA 22313-1450

1 page cover letter
8 pages - license agreement

BEST AVAILABLE COPY



103320697

SEP 21 2006

Form PTO-1595 (Rev. 09/04)
OMB No. 0651-0027 (exp. 6/30/2005)

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

RECORDATION FORM COVER SHEET

PATENTS ONLY

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

9/21/06

1. Name of conveying party(ies)/Execution Date(s):

Dassault Systemes SA

Execution Date(s): November 3, 2005

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

2. Name and address of receiving party(ies)

Name: ImpactXoft

Internal Address:

Street Address:

22A Great Oaks Boulevard

City: San Jose

State: CA

Country: USA Zip: 95119

Additional name(s) & address(es) attached: Yes No

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Assignment

Merger

Security Agreement

Change of Name

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6,868,297

Additional numbers attached? Yes No

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

Name: John B. Montgomery, Esq.
MONTGOMERY LAW GROUP, LLP

Internal Address:

Street Address: 625 Middlefield Road
Suite 250

City: Menlo Park

State: CA Zip: 94025

Phone Number: (650) 331-7002

Fax Number: (650) 331-7001

Email Address: jmontgomery@montgomerylawgroup.com

6. Total number of applications and patents involved:

4

7. Total fee (\$7 CFR 1.21(h) & 3.41) \$ 180.00

Authorized to be charged by credit card

Authorized to be charged to deposit account

Enclosed

None required (government interest not affecting fee)

8. Payment Information

a. Credit Card Last 4 Numbers

Expiration Date

b. Deposit Account Number

Authorized User Name

9. Signature:

Signature

September 2006

Date

THIBAUT DE TERSANT
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents:

9

10/11/2006 RHEBRIGHT 00000003 10071540 160.00 DF 01 FC-6021

LICENSE AGREEMENT**BEST AVAILABLE COPY**

*THIS AGREEMENT is made by and between:

(1) DASSAULT SYSTÈMES, a French corporation having its registered office at 9, quai Marcel Dassault, 92150 Suresnes, France ("DS"),

and

(2) IMPACTXOFT a corporation organized and existing under the laws of the State of California, having its registered office at 22A Great Oaks Blvd., San Jose, California 95119, hereinafter "IX",

WHEREAS :

- (A) DS is a software editor that, together with its Affiliates, develops or has developed, and distributes, directly or indirectly, advanced software development solutions, designated as Product Lifecycle Management (or "PLM");
- (B) IX is a software editor and desires to grant a license to DS under IX's intellectual property; and
- (C) DS desires to obtain a license from IX under IX's intellectual property.

NOW THEREFORE, in consideration of the foregoing premises and the mutual covenants herein contained, the parties hereto agree as follows.

SECTION 1 DEFINITION

"Affiliate" designates (a) in relation to either party hereto, (a) any entity in which the relevant party directly or indirectly holds more than 50% of the voting stock or power, (b) any entity ("Holding Entity") which holds directly or indirectly more than 50% of the voting stock or power of the relevant party, (c) any other entity in which more than 50% of the voting stock or power is directly or indirectly held by any Holding Entity of the relevant party or (d) any entity in which the relevant party directly or indirectly holds less than 50% of the voting stock or power but has management control of such entity in that it has the ability to appoint and remove the majority of the Board of Directors (or other governing body) of such party.

"Bankruptcy Code" shall designate Title 11, United States Code.

"DS Group" designates DS and the Affiliates of DS, including without limitation the DS Subsidiaries.

"DS Subsidiaries" designates companies which more than 50% of the outstanding voting share capital is owned directly or indirectly by DS."

"Effective Date" designates October 28th, 2005.

"IX Intellectual Property Rights" designates, without limitation, the following that are owned by or licensed to IX or any IX Affiliate.

- all intellectual property rights relating to the IX Relevant Elements, including without limitation the Necessary Industrial Property Rights, whether existing as of the Effective Date or at any time thereafter, and
- copyrights, trade secrets and know-how, and
- IX trademarks for the limited purpose of attributing underlying ownership of IX Relevant Elements to IX.

"IX Relevant Elements" designates, without limitation, the following, as existing as of the Effective Date:

- the object code and source code of the Software Products (as defined below),
- all revised or updated versions of the Software Products,
- all new, expanded or improved versions of the Software Products,
- all error corrections, bug corrections, program patches and updates relating to the Software Products,
- all code under development and for which DS and IX have exchanged information,
- all documentation regarding the Software Products or code under development, such as identified above, namely (a) all technical documentation relating to the design and development of the Software Products, (b) all documentation relating to the operation of the Software Products (c) all documentation integrated into the Software Products or accessible through internet (d) all documentation related to the development of new products, including specifications or suggestions (e) all other relevant documentation and (f) regardless of the form, medium or location of the documentation.

"Necessary Industrial Property Rights" designates all (i) Patent Rights covering, in whole or in part, the IX Relevant Elements and existing as of the Effective Date or at any time there after, including without limitation the following patent and patent applications:

- *US Patent n° 6,868,297 entitled "Method and system for designing objects using functional modeling", filed on February 8, 2002 and granted on March 15, 2005,*
- *US Patent Application entitled "Method and system for designing objects using functional object representation", filed on February 8, 2002 and*
- *US Patent Application entitled "Method and system for designing objects using design intent merge" filed on February 8, 2002,*

and (ii) trade secrets and know-how related to IX Relevant Elements.

"Patent Rights" designates all rights under patents and patent applications, disclosures of invention and any and all patents issuing therefrom (including utility, model and design patents and certificates of invention), together with any and all substitutions, extensions (including supplemental protection certificates), registrations, confirmations, reissues, divisionals, continuations, continuations-in-part, re-examinations, renewals and foreign counterparts of the foregoing.

"Software Products" designates the IX applications and/or components related to either or both of:

- Functional Molded Product which is 3D modeling software applicable to the design of molded and plastic parts. In one exemplary application, the software provides direct access to a collection of intuitive functional features that are useful for designing molded parts, and
- Instant Collaborative Design Product which allows electronic collaboration between two or more parties in undertaking product design and engineering. Exemplary features include a tool bar that enables instant collaboration at any time to contact someone, chat, exchange design contents or organize a 3D meeting, irrespective of their designation.

SECTION 2 LICENSE

At the execution of this Agreement, IX will deliver by electronic transmission to DS any and all IX Relevant Elements not previously delivered. DS acknowledges that all IX Relevant Elements previously delivered were delivered through electronic transmission. IX grants to DS a perpetual, non-exclusive, royalty free, irrevocable, worldwide license (a "License") under and to the IX Intellectual Property Rights to:

(i) use, modify (including, without limitation, improving, translating and re-writing into another language or another manner), transfer into another environment (hardware, software, web, multimedia or other), adapt, and reproduce the IX Relevant Elements to:

- a) integrate and incorporate the IX Relevant Elements into any existing or future work or DS Group product;
- b) distribute directly or indirectly DS Group products integrating or incorporating the IX Relevant Elements under any mark (excluding any IX trademark except as provided below) to any third party and/or for the benefit of any third party;
- c) sublicense the IX Relevant Elements to any third party when bundled together with, or embedded into, any DS Group product, component, development platform or service for use and/or distribution alone, as a bundle or embedded with third party products or services;
- d) make, or have made by any third party, derivative works of the IX Relevant Elements; and

(ii) to use, modify, make, have made (including the right, under appropriate obligations of confidentiality, to subcontract the design, manufacture or assembly of), distribute directly or indirectly, sell, offer for sale or import DS Group products integrating or incorporating the Necessary Industrial Property Rights and IX Intellectual Property Rights.

For the avoidance of doubt, DS retains exclusive ownership of all derivative works of the IX Relevant Elements and/or of the Necessary Industrial Property Rights created by or on behalf of DS without additional consideration to IX or any of its successors.

The License shall be non-transferable except that DS may transfer the License to (A) a DS Subsidiary (B) a third party which (i) acquires substantially all of the assets of DS or DS Subsidiary or voting securities representing more than 50% of the outstanding voting share capital of DS or DS Subsidiary in an asset purchase, merger, stock purchase or other similar transaction or (ii) acquires the product line of DS or DS Subsidiary which integrates or incorporates the IX Relevant Elements and/or IX Intellectual Property Rights existing at the time of such acquisition. Notwithstanding clause (ii) of the preceding sentence, in the event DS or DS Subsidiary transfers the license in connection with the sale of a product line which integrates or incorporates the IX Relevant Elements and/or IX Intellectual Property Rights, such license shall not include the right to make or have made derivative works of the IX Relevant Elements that may be integrated or incorporated into such product line (namely the right described in subsection d) above). It is specifically understood that in such case DS or the DS Subsidiary continues to retain for itself the full grant of License under this Agreement without restriction, and that nothing restricts the rights of any such third party to make or have made derivative works of such product line other than derivative works of the IX Relevant Elements.

The License shall be non-sublicensable except as provided in this Agreement and except that DS shall be free to sublicense the License to DS Subsidiaries.

Reference to Functional Molded Product and to Instant Collaborative Design Product above is made only for purpose of identification of the applications and/or components being part of the

Software Products. This reference does not prevent DS from using such applications and/or components for other software products in its sole discretion under the License.

The Software Products are further detailed in the Exhibit A hereto.

IX shall provide DS with immediate and continuing access to all embodiments of IX Relevant Elements and IX Intellectual Property Rights licensed hereunder, including, without limitation, source code, source code documentation, and object code.

SECTION 3 CONSIDERATION; CONVERSION OF PREFERRED STOCK

(a) In consideration for the License, DS shall pay US\$15 million (Fifteen Million Dollars) to IX. The price shall be payable upon Effective Date as follows:

- (i) by setting off against the price of the License, the aggregate principal and interest outstanding under the loan agreement dated October 11, 2002 between Dassault Systèmes Corp. and IX, as amended, as of the Effective Date, i.e. U.S.\$ 13,729,843 (the "Loan Agreement"),
- (ii) in cash for the balance amounting to U.S.\$1,270,157, by wire transfer in immediately available funds, if any, once the set off is completed.

In addition, upon the Effective Date, DS and IX will take all action necessary under Article III, Section 5(a)(i) of the Third Amended and Restated Articles of Incorporation of IX to convert all of Dassault Systèmes Corp's ("DS Corp") shares of Series A Preferred Stock and Series C Preferred Stock of IX into Common Stock of IX in accordance therewith; provided that DS Corp. shall expressly retain the rights it currently has as a holder of Series A Preferred Stock and Series C Preferred Stock under Section 1, Section 2.1(a) and Section 2.4 of the Third Amended and Restated Investors' Rights Agreement dated as of October 11, 2002, and the Third Amended and Restated Co-Sale Agreement dated as of October 11, 2002, as if it had not converted its shares into Common Stock. Upon the Effective Date, DS shall deliver all certificates representing shares of IX's Series A Preferred Stock or Series C Preferred Stock to IX along with an executed conversion election in the form attached hereto as Exhibit B. Any director elected by DS as the representative of the holders of IX's Series C Preferred Stock, currently Pascal Daloz, shall resign effective as of the date hereof. On or before the Effective Date, DS shall deliver to IX a resignation of director signed by Pascal Daloz in the form attached hereto as Exhibit C.

ARTICLE 4 REPRESENTATION AND WARRANTIES

IX represents and warrants that:

- (i) IX has all rights, interest, and title in or to the IX Relevant Elements and IX Intellectual Property Rights, necessary for the performance of this Agreement, free and clear of all liens, claims, encumbrances, rights or equity whatsoever of any third party, including all rights, interest and title necessary to grant all licenses defined herein and IX has obtained all necessary IX corporate approvals and authorizations and all necessary regulatory approvals and authorizations;
- (ii) To the best of its knowledge, neither all nor any part of the IX Relevant Elements and IX Intellectual Property Rights, nor the use of all or any part of the IX Relevant Elements and/or IX Intellectual Property Rights violates, is a misappropriation of, or infringes any patent, copyright, trademark, trade secret or any other intellectual property right or application thereto of any third party;
- (iii) There has not been and there is not currently any litigation, investigation, arbitration or other proceeding pending or, to the best of IX's knowledge, threatened, against or adversely affecting the IX Relevant Elements or IX Intellectual Property Rights;

- (iv) The IX Relevant Elements conform to the applicable documentation and technical description related to such IX Relevant Elements and do not contain any known viruses, worms, Trojan horses or other destructive devices irrespective of their designation;
- (v) The IX Relevant Elements contain no third party software components including, but not limited to, code licensed under the GNU GPL or alike;
- (vi) IX has complied with all Business Restrictions set forth in the letter agreement, dated October 6, 2005, by and between DS and IX.

SECTION 5 ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS

(a) Indemnification

IX agrees to defend, indemnify and hold DS, as well as the DS Subsidiaries, distributors and/or end-users, and their respective officers, directors, employees, and shareholders, harmless from and against any and all demands or claims of any nature, including without limitation, administrative, civil or criminal procedures, which have been or may be made or raised, by any third party alleging that the use, operation or distribution of IX Relevant Elements or IX Intellectual Property infringes, violates or misappropriates any third party's patent, copyright, trade secret or other intellectual property right in any country.

This commitment is conditioned upon DS :

- (i) giving IX written notice of the demand or claim; and
- (ii) giving IX sole control of the defense to the demand or claim; provided, however, that IX will not enter into any judgment or settlement that admits or concedes that any IX Intellectual Property Rights are invalid or unenforceable, or that limits the scope of the IX Intellectual Property Rights, without DS's prior written consent.

Indemnification hereunder shall cover all damages suffered regardless of their nature, and other costs and expenses possibly incurred, including without limitation settlements, costs of investigation, expertise, court costs and attorneys' fees.

(b) Additional remedies

If the use, operation and/or distribution of IX Relevant Elements and/or if any IX Intellectual Property becomes, or is likely to become, the subject of a claim involving the infringement or other violation of any patent, copyright, trade secret, or other intellectual property rights of any third party, the parties will jointly determine in good faith what appropriate steps can be agreed upon, with a view towards remedying such infringement or other violation, at IX's sole and exclusive expense and risk, including without limitation:

- (i) IX securing the right for DS to continue using the IX Relevant Elements; or
- (ii) IX modifying the IX Relevant Elements, so that they become non-infringing or replacing them with another computer program which is functionally equivalent.

If neither of the foregoing options (i) and (ii) is available on terms which are reasonable for DS, DS agrees to use its reasonable commercial efforts to withdraw IX Relevant Elements from the DS Group product(s) embedding it, at IX's sole expense.

IX shall have no obligation for any claims of infringement based on any modification by DS of IX Relevant Elements, or from the combination of the IX Relevant Elements, with any other computer program, data or other item, to the extent such claim would not have arisen without such modification or combination.

(c) Active enforcement by IX of its Intellectual Property Rights

IX shall actively enforce IX Intellectual Property Rights, including without limitation, through any actions at law or equity against any infringers of its patents, copyrights, trademarks or trade secrets on or related to the IX Relevant Elements and/or IX Intellectual Property Rights.

SECTION 6 MISCELLANEAOUS

(a) Termination of prior Agreements

The Software Component Provider Agreement dated September 30, 2002, as amended (referenced 01038A2002GRUP), the Gold Software Partner Agreement referenced 00763A2003GRUP, and the Loan Agreement dated October 11, 2002 as amended through the Effective Date (the "Loan Agreement") and the Security Agreement dated May 4, 2005, as in effect at the Effective Date between DS and IX (the "Current Agreements") are hereby terminated for convenience with no indemnities whatsoever to be paid by DS under the Gold Software Partner Agreement, and all security interests in IX assets are hereby released. DS shall cooperate with IX to file UCC termination statements and such other instruments as may be required to release such security interests.

IX releases DS from any obligation that it may have under the Software Component Provider Agreement or the Loan Agreement to pay royalties with respect to any period subsequent to the Effective Date. Notwithstanding the foregoing, DS shall remain liable for the payment of all accrued but unpaid royalties under the Software Component Provider Agreement through the Effective Date.

It is understood and acknowledged by the parties that DS will not assume any liabilities whatsoever of IX, including without limitation, in connection with (i) the IX Relevant Elements, (ii) the employees to whom DS have made an employment offer, (iii) any CAA products developed or supported by IX pursuant to the Gold Software Partner Agreement, and (iv) any IX customers using CAA products, other than obligations or liabilities which may be specifically assumed in writing by DS, acting in its sole discretion.

IX does hereby release, remise and forever discharge Pascal Daloz, including in his capacity as director of IX, of and from all debts demands, actions, causes of action, suits, accounts, covenants, contracts, agreements, claims, rights, damages, losses or liabilities of any nature whatsoever, both at law or in equity, whether known or unknown which arose at any time prior to the date hereof or which hereafter could arise based on any act, fact, transaction, cause, matter or thing which occurred prior to the date hereof, other than obligations of DS in respect of this agreement.

IX acknowledges that the foregoing releases shall extend to unknown, as well as known claims, and hereby waives the application of any provision of law, including, without limitation, Section 1542 of the California Civil Code, that purports to limit the scope of a general release. IX acknowledges that it has been advised by legal counsel and is now familiar with the provisions of California Civil Code Section 1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

(b) Bankruptcy

The parties agree that this License is a license of "intellectual property" as defined in the Bankruptcy Code and as to which Bankruptcy Code section 365(n) is applicable. IX acknowledges that if IX, as a debtor in possession in a case under the Bankruptcy Code, or a trustee on behalf of the estate in such a case (the "Bankruptcy Trustee") rejects this Agreement,

DS may elect to retain its rights under this Agreement as provided in Section 365(n) of the Bankruptcy Code. Upon written request of DS to IX or the Bankruptcy Trustee, IX or such Bankruptcy Trustee (i) shall not interfere with the rights of DS as provided in this Agreement, including the right to continue to use the IX Relevant Elements and IX Intellectual Property Rights pursuant to the licenses granted herein, and (ii) shall provide DS with access to all embodiments of IX Relevant Elements and IX Intellectual Property Rights licensed hereunder, including, without limitation, source code, source code documentation, and object code.

Failure by DS to provide notice to IX or any Bankruptcy Trustee as provided above or to provide notice of an election to retain rights to the intellectual property encompassed by this Agreement pursuant to Section 365(n) of the Bankruptcy Code shall not be construed as an election to treat this contract as terminated pursuant to Bankruptcy Code Section 365(n).

In any case in which DS is a debtor under Bankruptcy Code, IX consents to the assumption by DS of this Agreement upon satisfaction of statutory conditions of such assumption.

(c) Force majeure

Neither party shall be held liable for any loss, injury, delay, expenses, damages or other casualty suffered or incurred by the other party, as a result of its failure to fulfill any obligation under this Agreement, where such failure arises out of or in relation with any causes beyond its reasonable control including without limitation: Acts of God, fires, storms, floods, earthquakes, acts of war, acts of terrorism, governmental acts, or other laws or regulations, strikes, lockouts, labor disputes, or export or re-export regulations and formalities.

(d) Severability

To the fullest extent possible each provision of this Agreement shall be interpreted in such fashion as to be effective and valid under applicable law.

Should any provision(s) of this Agreement be found invalid, illegal, void or unenforceable by any competent authority in any respect, the remaining provisions of this Agreement shall remain in full force and effect and be binding with the same effect as if the invalid, illegal, void or unenforceable provision(s) was originally deleted.

(e) Amendment to Agreement

This Agreement shall not be modified or amended except by way of a written agreement referred to as an amendment to this Agreement and duly signed by authorized officers of both IX and DS.

(f) Confidentiality on Agreement

During the Term of this Agreement, each party will use its best efforts not to disclose the terms and conditions of this Agreement to any third party without the prior written consent of the other party, except as provided pursuant to any of the following: as required by law or governmental regulations, requirements or orders, as may be necessary to establish or assert its rights hereunder before any competent court, and to third parties under appropriate obligations of confidentiality in connection with an actual or potential license, merger, acquisition, investment, or other similar transaction. This shall include, but not shall not be limited to, each party being responsible for any breach of confidentiality by any person to whom it disclosed such confidential information. In addition, any person who has knowledge of such information shall be subject to applicable provisions of securities laws that strictly prohibit the trading of DS securities while in possession of material non-public information about DS.

(g) Non-waiver

The failure or delay of either party in exercising or enforcing any right, remedy or other provision under this Agreement shall not operate as, or be construed to be, a waiver of such right, remedy or provision which may be exercised or enforced at any time thereafter.

(h) Covenants

If prior or after to the Effective Date, any IX employees or managers have accepted employment offers made by DS, IX hereby waives any rights it may have against such individuals or DS under any agreement or under applicable law to enforce any non-competition, non-solicitation or no-hire of IX employees or other obligation or restriction that would prevent DS from employing such individuals in its business.

(i) Expenses

All expenses incurred by DS and IX in connection with this Agreement shall be paid by the party incurring such expense.

SECTION 7 GOVERNING LAW

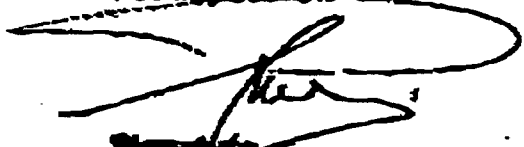
This Agreement shall be governed by and construed in accordance with the laws of the state of California, expressly excluding the application of the United Nations Convention for the International Sale of Goods.

SECTION 8 COMPETENT COURT

The federal and state courts of the State of California, U.S.A. will be exclusively competent to hear any dispute arising out of or in connection with the execution, interpretation and/or performance of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers as of the date last written below.

For ImpactYott




Signature

Name: ATTILIO R. HADDAD
Title: PRESIDENT & CEO
Date: 2 - November - 2005

For Dessault Systemes

Signature

Tibault de Tersant
CFO
Date: 
Nov 3, 2005