

U.S. PTO  
11/888248  
07/31/2007

Form PTO-1595 (Rev. 07/05)  
OMB No. 0651-0027 (exp. 6/30/2008)

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

08-09-2007



1EET

7-31-07

103435230

To the Director of the U.S. Patent

ed documents or the new address(es) below.

**1. Name of conveying party(ies)**

Kasman E. Thomas

**2. Name and address of receiving party(ies)**

Name: Novell, Inc.

Internal Address: \_\_\_\_\_

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

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

Execution Date(s) 7/29/2002

☐ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☐ Joint Research Agreement

☐ Government Interest Assignment

☐ Executive Order 9424, Confirmatory License

☒ Other Employee Agreement

Street Address: 1800 South Novell Place, M/S H544

City: Provo

State: Utah

Country: US

Zip: 84606

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)

B. Patent No.(s)

08/08/2007 DBYRNE 00000073 110978 11888248

01 FC:8021 40.00 DA

Additional numbers attached? ☐ Yes ☒ No

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

Name: Michael T. Sanderson, Esq.

Internal Address: 1363-039

Street Address: 247 North Broadway

City: Lexington

State: Kentucky

Zip: 40507

Phone Number: 859/252-0889

Fax Number: 859/252-0779

Email Address: buzzsanderson@iplaw1.net

**6. Total number of applications and patents involved: 1**

**7. Total fee (37 CFR 1.21(h) & 3.41) \$ 40.00**

☐ Authorized to be charged by credit card

☒ Authorized to be charged to deposit account

☐ Enclosed

☐ None required (government interest not affecting title)

**8. Payment Information**

a. Credit Card Last 4 Numbers \_\_\_\_\_

Expiration Date \_\_\_\_\_

b. Deposit Account Number 11-0978

Authorized User Name Michael T. Sanderson

**9. Signature:**

*Michael T. Sanderson*

Signature

7-31-07

Date

Michael T. Sanderson, Reg. No. 43,082

Name of Person Signing

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

5

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:  
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O. Box 1450, Alexandria, V.A. 22313-1450

PATENT  
REEL: 019694 FRAME: 0541

## SILVERSTREAM STANDARD EMPLOYEE AGREEMENT

This Agreement is made between SilverStream Software Inc. (the "Company"), and  
KASMAN E. THOMAS (the "Employee").

SS 571-90-1307

In consideration of the employment or the continued employment of the Employee by the Company, the Company and the Employee agree as follows:

### 1. Proprietary Information

- a) The Employee agrees that all information, whether or not in writing, of a private, secret or confidential nature concerning the Company's business, business relationships or financial affairs (collectively, "Proprietary Information") is and will continue to be the exclusive property of the Company. In order to illustrate this definition, Proprietary Information may include, without limitation, inventions, products, processes, methods, techniques, formulas, compositions, compounds, projects, developments, plans, research data, clinical data, financial data, personnel data, computer programs, customer and supplier lists, and contact at or knowledge of customers or prospective customers of the Company, as well as materials and tangible property of customers of the Company or suppliers to the Company. The Employee will hold all Proprietary Information in the strictest confidence, and not communicate any Proprietary Information to any person or entity other than employees of the Company or use Proprietary Information for any purpose (other than in the performance of his/her duties as an employee of the Company) without written approval by an officer of the Company, either during or after his/her employment with the Company, unless and until such Proprietary Information has become public knowledge without activity by the Employee.
- b) The Employee will not, during his/her employment with the Company, improperly use or disclose any proprietary information or trade secrets of any former employer or other person or entity with whom he/she has an agreement or duty to keep such information or secrets confidential, if any, and the Employee will not bring onto the premises of the Company any unpublished document or proprietary information belonging to any such employer, person or entity unless consented to in writing by such employer, person or entity. The Employee recognizes that the Company has received and in the future will receive from third parties their confidential or proprietary information subject to a duty on the Company's part to maintain the confidentiality of such information and to use it only for certain limited purposes. The Employee agrees to hold all such confidential or proprietary information in the strictest confidence and not to disclose it to any person or entity or to use it except as necessary in carrying out my work for the Company, consistent with the Company's agreement with such third party.
- c) The Employee agrees to return promptly to the Company, upon (i) a request by the Company or (ii) termination of his/her employment, whichever is earlier, all Proprietary Information and all tangible property furnished to or prepared by the Employee in the course of or relating to his/her employment. After such delivery, the Employee shall not keep any Proprietary Information or copies of Proprietary Information or any such tangible property.

### 2. Developments

- a) The Employee will make full and prompt communication to the Company of all inventions, improvements, discoveries, designs, methods, processes, developments, software, business methods, works of authorship or similar property, whether or not patentable or registrable under copyright or similar law, and any or all rights or benefits resulting therefrom, which are created, made, conceived or reduced to practice by him/her or under his/her direction or jointly with others during his/her employment by the Company, whether or not during normal working hours or on the premises of the Company (collectively, "Developments").
- b) The Employee agrees to transfer and does hereby transfer to the Company (or any person or entity designated by the Company) all his/her rights, title and interest in and to all Developments and all related patents, patent applications, copyrights and copyright applications. The Employee further acknowledges that all original works of authorship which are made by the Employee (solely or jointly with others) within

the scope of the Employee's employment and which are protectable by copyright are "works for hire" as that term is defined in the United States Copyright Act. If in the course of the Employee's employment with the Company, Employee incorporates into a Company product, process or machine some or all of any invention, original work of authorship, development, improvement or trade secret which belongs to the Employee or in which the Employee has an interest (a "Prior Invention"), and which is not assigned to the Company hereunder, the Employee hereby grants the Company a nonexclusive, royalty-free, irrevocable, perpetual, worldwide license to make, have made, modify, use, sell and have sold such Prior Invention as part of or in connection with such product, process or machine. However, this paragraph 2(b) shall not apply to Developments which do not relate to the present or planned business or research and development of the Company and which are made by the Employee not during normal working hours, not on the Company's premises and not using the Company's tools, devices, equipment or Proprietary Information. If this Agreement is interpreted under the laws of any state that does not permit a requirement in an employee agreement to assign certain classes of inventions made by an employee, this paragraph 2(b) will be interpreted not to apply to any invention which a court rules and/or the Company agrees falls within such classes.

- c) In the event that the Company decides that any Development is copyrightable or patentable or otherwise registrable, the Employee agrees to assist the Company (at its expense) in obtaining and maintaining letters, patents, or other applicable registrations and in vesting the Company with full title. If the Company is unable to obtain the signature of the Employee on any document necessary to apply for, prosecute, obtain, or enforce any patent, copyright, or other right or protection relating to any Development, the Employee irrevocably appoints the Company and each of its authorized officers and agents as the Employee's agent to do all lawfully permitted acts to further the prosecution, issuance, and enforcement of patents, copyrights, or other rights or protection with the same force and effect as if executed and delivered by the Employee.

### **3. Non-solicitation and Non-competition**

While the Employee is employed by the Company and for a period of two years after the termination or cessation of such employment for any reason, the Employee will not directly or indirectly:

- a) recruit, solicit, hire or engage as an independent contractor, any employee of the Company, or induce or attempt to induce any employee of the Company to terminate his/her employment with the Company; or
- b) solicit, divert or take away, or attempt to divert or to take away any of the clients, customers or accounts, or prospective clients, customers or accounts, of the Company which were contacted, solicited or served by the Employee while employed by the Company.

In addition, for a period of one year after the termination or cessation of such employment for any reason, the Employee will not directly or indirectly in the geographic territory or territories where the Company does business, as an individual proprietor, partner, officer, employee, director, joint venturer, consultant or in any other capacity whatsoever (other than as the holder of not more than one percent of the combined voting power of the outstanding stock of a publicly held company), develop, design, produce, market, sell or render (or assist any other person in developing, designing, producing, marketing, selling or rendering) products or services competitive with those developed, designed, produced, marketed, sold or rendered by the Company while the Employee was employed by the Company or with those planned by the Company while the Employee was employed by the Company and known to the Employee;

If any restriction set forth in this Section is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic area as to which it may be enforceable.

**4. Other Agreements**

The Employee hereby states that, except as the Employee has disclosed in writing to the Company, the Employee is not obligated by the terms of any agreement with any previous employer or other party to not use or communicate any trade secret or confidential or proprietary information in the course of his/her employment with the Company or to not compete, directly or indirectly, with the business of such previous employer or any other party. The Employee further states that he/she will not disclose to the Company, or use, or induce the Company to use, any proprietary information or trade secrets of others.

**5. Not Employment Contract**

The Employee understands that this Agreement is not a contract of employment and does not mean that his/her employment will continue for any period of time. The Employee understands that all employment with the Company is on an "at will" basis.

**6. Non-Disparagement.**

The Employee agrees that he/she will not individually, nor will he/she direct, cause or encourage, his/her agents, family members or other representatives, or those acting on his/her behalf, to denigrate or disparage the Company or its current or former directors, shareholders, officers, or employees.

**7. Miscellaneous**

- a) Even if one or more of the provisions of this Agreement is found to be unenforceable or invalid, the remainder will remain valid and enforceable.
- b) This Agreement replaces all previous agreements, written or oral, between the Employee and the Company relating to the subject matter of this Agreement. This Agreement may not be modified, changed or terminated in whole or in part, except by an agreement in writing signed by the Employee and the Company.
- c) No failure to exercise or delay in exercising any right under this Agreement by the Company or the Employee will be a waiver of this Agreement.
- d) This Agreement will be binding upon the Employee's heirs, executors, administrators and other legal representatives, and will inure to the benefit of, and may be assigned by, the Company and its successors and assigns. For purposes of this Agreement, the term "Company" shall include the Company, Novell, Inc. and any subsidiary and affiliate of either, as they may exist from time to time, and their respective successors and assigns, whether or not the Employee is or has been employed by any such subsidiary or affiliate.
- e) The restrictions contained in this Agreement are necessary for the protection of the business and goodwill of the Company and are considered by the Employee to be reasonable for such purpose. The Employee agrees that any breach of this Agreement is likely to cause the Company substantial and irrevocable damage and therefore, in the event of any such breach, the Employee agrees that the Company, in addition to such other remedies which may be available, shall be entitled to specific performance and other injunctive relief.
- f) This Agreement is to be interpreted by the laws of the Commonwealth of Massachusetts. Any legal proceeding which is commenced to resolve any dispute arising under this Agreement shall be commenced only in a court of the Commonwealth of Massachusetts (or, if appropriate, a federal court located within Massachusetts), and the parties consent to the jurisdiction of such court. Should either party be determined by a court of competent jurisdiction to have breached any provision of the Agreement, such party will be held liable for any and all damages incurred that were occasioned by that breach including attorneys' fees and costs incurred in enforcing this Agreement.

- g) Employee's employment with SilverStream constitutes at-will employment. This means that either SilverStream or Employee may terminate Employee's employment at any time for any reason or no reason, with or without notice.

THE EMPLOYEE ACKNOWLEDGES THAT HE/SHE HAS CAREFULLY READ THIS AGREEMENT AND UNDERSTANDS AND AGREES TO ALL OF THE PROVISIONS IN THIS AGREEMENT.

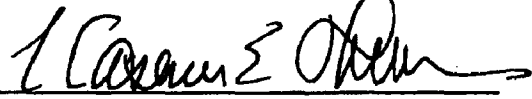
WITNESS

Date: 12/12/02

SILVERSTREAM SOFTWARE INC.

By: Lee McGloth 

EMPLOYEE: KASMAN E. THOMAS

  
Signature

Date: 7-29-2002