

PATENT ASSIGNMENT

Electronic Version v1.1
Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
ProactiveNet, Inc.	09/30/2009
RECEIVING PARTY DATA	
Name:	BMC Software, Inc.
Street Address:	2101 CityWest Blvd.
City:	Houston
State/Country:	TEXAS
Postal Code:	77042
PROPERTY NUMBERS Total: 8	
Property Type	Number
Patent Number:	6327677
Patent Number:	6453346
Patent Number:	6816898
Patent Number:	7131037
Patent Number:	7502844
Application Number:	10452134
Application Number:	11160664
Application Number:	11308430
CORRESPONDENCE DATA	
Fax Number:	(713)918-1110
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	713-918-4441
Email:	marlette_clouser@bmc.com
Correspondent Name:	BMC Software, Inc.
Address Line 1:	2101 CityWest Blvd.
Address Line 4:	Houston, TEXAS 77042

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PATENT
REEL: 023379 FRAME: 0981

ATTORNEY DOCKET NUMBER:	PROACTIVENET, INC.
NAME OF SUBMITTER:	Marlette F. Clouser
<p>Total Attachments: 8</p> <p>source=Intellectual Property Rights Assignment (PROACTIVENET)#page1.tif source=Intellectual Property Rights Assignment (PROACTIVENET)#page2.tif source=Intellectual Property Rights Assignment (PROACTIVENET)#page3.tif source=Intellectual Property Rights Assignment (PROACTIVENET)#page4.tif source=Intellectual Property Rights Assignment (PROACTIVENET)#page5.tif source=Intellectual Property Rights Assignment (PROACTIVENET)#page6.tif source=Intellectual Property Rights Assignment (PROACTIVENET)#page7.tif source=Intellectual Property Rights Assignment (PROACTIVENET)#page8.tif</p>	

INTELLECTUAL PROPERTY RIGHTS ASSIGNMENT

This INTELLECTUAL PROPERTY RIGHTS ASSIGNMENT is made as of the date of September 30, 2009 ("Effective Date") by and between ProactiveNet, Inc. a California corporation ("Assignor") and BMC Software, Inc., a Delaware corporation ("Assignee").

RECITALS

WHEREAS, pursuant to that certain Agreement and Plan of Merger dated May 28, 2007, certain assets of Assignor were and are to be assigned to Assignee, including the assets and rights of Assignor as set forth in this Assignment; and

WHEREAS, Assignee desires to acquire Assignor's entire right, title, and interest in and to the assets and rights set forth in this Assignment;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor makes the following assignment, and the parties agree as follows:

ASSIGNMENT

1. Definitions.

1.1 Domain Names means the domain name registrations set forth on Schedule 1 hereto.

1.2 Intellectual Property means any or all of the following:

(a) inventions and conceptions (whether patentable or not), technology, designs, models, and improvements (collectively, hereinafter referred to as "Patentable Assets");

(b) non-public proprietary information of any nature, including, but not limited to:

- (i) that of a business, technical, or financial nature,
- (ii) trade secrets,
- (iii) confidential information, and
- (iv) other non-public information, including, but not limited to:
 - A. know how,
 - B. business methods, processes, procedures, and methodologies, and
 - C. that contained in non-published patent applications(collectively, hereinafter referred to as "Trade Secrets");

(c) works of authorship, including, but not limited to, the Software; the Source Code of the Software; computer programs (in Source Code, object code, or script form); data; files; records; schematics; drawings; diagrams; tools; utilities; documentation; marketing materials; and other content, whether in electronic, digital, or

tangible form and in whatever media (collectively, hereinafter referred to as "Copyrightable Content");

(d) databases and data collections (collectively, hereinafter referred to as "Data Collections");

(e) the Trademarks, Domain Names, and the trade dress of products; and

(f) any similar or equivalent embodiments, representations or manifestations of property issuing from intellect.

1.3 Intellectual Property Rights means the rights to Intellectual Property afforded by the laws, regulations, statutes, and constitutions of any country or under international treaties or conventions and those arising from contractual rights between parties, including rights:

(a) with respect to Patentable Assets that are embodied in Patents;

(b) with respect to Trade Secrets, including rights arising from trade secret and unfair competition laws and from laws that protect non-public competitive information;

(c) with respect to Copyrightable Content, including copyright rights in expression in content in applications for copyright registration and copyright registrations, and also including rights of first publication, whether or not registered, and moral rights (to the extent such moral rights are owned, controlled by, or may be granted or transferred to another by the employer of an author who created the Copyrightable Content);

(d) with respect to Data Collections, including rights arising from database protection laws;

(e) with respect to the Trademarks, Domain Names, and trade dress of products, rights arising under trademark laws and unfair competition laws; and

(f) any other rights that protect embodiments, representations, or manifestations of property issuing from intellect.

1.4 Patents means the patents set forth on Schedule 2 hereto and (i) patent applications set forth on Schedule 2 hereto and any reissue applications, divisions or divisional applications, continuation applications, and continuation-in-part applications; (ii) any patents that grant from the patent applications listed in (i) of this Definition; (iii) extensions and reexaminations that grant from the patent applications listed in (i) of this Definition; and (iv) statutory invention registrations.

1.5 Software means, collectively:

(a) the computer programs only in object code or script form that are (i) owned by Assignor on the Effective Date; and (ii) licensed to Assignor by a third party as of the

Effective Date (as to which the third party has granted to Assignor the right to sublicense);

(b) enhancements and improvements to the computer programs of Section (a) of this Definition;

(c) updates to the computer programs of Section (a) of this Definition;

(d) any third party's computer program that is licensed by Assignor from a third party and has been made available by Assignor to licensed users of the computer programs of Section (a) of this Definition as a part of such computer programs; and

(e) the computer programs, configuration files, scripts, and definitions that are used for installing and uninstalling (i) the computer programs of subsection (a) of this Definition, (ii) the enhancements of subsection (b) of this Definition, (iii) the updates of subsection (c) of this Definition, and (iv) the third party computer programs of subsection (d) of this Definition, together with the migration tools, debugging tools, and diagnostic tools associated with (i), (ii), (iii), and (iv) of this subsection (e).

1.6 Source code means a series of computer programming instructions, statements, or definitions, whether (a) in an English-like high-level computer language such as C, C++, Visual Basic, or Java; (b) in a low-level language such as the assembly language for a particular processor or (c) in a script language such as Perl, JavaScript, or Shell Script; (d) in a markup language such as Flex; or (e) in any other programming model, and, including (i) complete instructions for compiling and linking every part of such instructions into executable forms; (ii) the precise identification of all compilers, library packages, linkers, and tools used to generate executable code; and (iii) and complete instructions for building an entire computer program, including but not limited to, all programs and configuration files, into a format suitable for shipping a working product for installation by an end user of such computer program.


1.7 Trademarks means the trade name, trademark and service mark applications and registrations set forth on Schedule 3 hereto.

2. Assignment. Assignor hereby assigns, transfers, and conveys to Assignee all right, title, and interest in and to the Intellectual Property and the Intellectual Property Rights, including without limitation, the right to sue for and collect damages for any and all past, present, and future infringement of same, together with the goodwill connected with the use of and symbolized by such Trademarks and/or Domain Names.


3. Further Assurances. Assignor agrees to execute and deliver to Assignee -any and all documents, forms, or other materials deemed necessary by Assignee to obtain, secure, and enforce any such Intellectual Property Rights and/or to record the transfers effected by this Assignment.

IN WITNESS WHEREOF, this Intellectual Property Rights Assignment is executed by the undersigned duly authorized officers of Assignor and Assignee this 30th day of September, 2009.

FOR ASSIGNOR: ProactiveNet, Inc.

By: 
Christopher C. Chaffin
Vice President & Secretary

FOR ASSIGNEE: BMC Software, Inc.

By: 
Christopher C. Chaffin
Vice President, Deputy General Counsel
Assistant Secretary

STATE OF TEXAS)

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COUNTY OF HARRIS)

BEFORE ME, the undersigned authority, on this 30 day of September, 2009, personally appeared Christopher C. Chaffin, the Vice President & Secretary of Assignor, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.

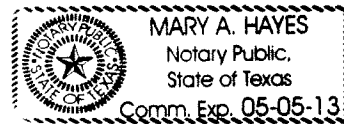
Mary A. Hayes
Notary

[SEAL]

STATE OF TEXAS)

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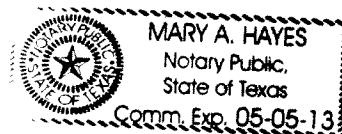
COUNTY OF HARRIS)



BEFORE ME, the undersigned authority, on this 30 day of September, 2009, personally appeared Christopher C. Chaffin, the Vice President, Deputy General Counsel, and Secretary of Assignee, known to me to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that he executed the same of his own free will for the purposes and consideration therein expressed.

Mary A. Hayes
Notary

[SEAL]



Schedule 1

DOMAIN NAMES

Item No.	Application No./ Registration No.	Domain Name	Jurisdiction	Ownership
1.	N/A	Proactivenet.com	N/A	ProactiveNet, Inc.
2.	D13068 - AFIN	Proactivenet.co.in	India	ProactiveNet Software Private Ltd.

Schedule 2

PATENTS

Item No.	Application No./ Registration. No.	Patents	Jurisdiction	Ownership
1.	6,327,677	Method and Apparatus for Monitoring a Network Environment	US	ProactiveNet, Inc.
2.	6,453,346	Method and Apparatus for Intelligent Storage and Reduction of Network Information	US	ProactiveNet, Inc.
3.	6,816,898	Interfacing External Metrics Into a Performance Management System	US	ProactiveNet, Inc.
4.	7,131,037	Method and system to correlate a specific alarm to one or more events to identify a possible cause of the alarm	US	ProactiveNet, Inc.
5.	7,502,844	Abnormality Indicator of a Desired Group of Resource Elements	US	ProactiveNet, Inc.
6.	10/452,134	Network Management System to Monitor Managed Elements	US	ProactiveNet, Inc.
7.	11/160,664	Monitoring Several Distributed Resource Elements as a Resource Pool	US	ProactiveNet, Inc.
8.	11/308,430	Facilitating Root Cause Analysis for Abnormal Behavior of Systems in a Networked Environment	US	ProactiveNet, Inc.
9.	599/CHE/2005	Monitoring Several Distributed Resource Elements as a Resource Pool	IN	ProactiveNet, Inc.

Schedule 3 TRADEMARKS

Item No.	Application No/ Registration. No.	Trademarks	Jurisdiction	Ownership
1.	2,437,604	PROACTIVENET (Class 042)	US	ProactiveNet, Inc.
2.	2,466,446	PROACTIVENET (Class 009)	US	ProactiveNet, Inc.
3.	2,897,964	INTELLIGENT THRESHOLDS	US	ProactiveNet, Inc.