

Form PTO-1595 (Rev. 03-09)  
OMB No. 0651-0027 (exp. 03/31/2009)

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.

**1. Name of conveying party(ies):**  
ColdSpark, Inc.  
  
Additional name(s) of conveying party(ies) attached?  Yes  No

**2. Name and address of receiving party(ies)**  
Name: ColdSpark, Inc.  
Internal Address: \_\_\_\_\_  
Street Address: \_\_\_\_\_

**3. Nature of conveyance/Execution Date(s):**  
Execution Date(s): June 9, 2009  
 Assignment  Merger  Change of Name  
 Security Agreement  Joint Research Agreement  
 Government Interest Assignment  
 Executive Order 9424, Confirmatory License  
 Other To Correct address of assignee as Recorded at reel 024529, Frame 0024

9540 Towne Centre Drive  
Suite 100  
  
City: San Diego  
State: California  
Country: United States of America Zip: 92121  
Additional name(s) & address(es) attached?  Yes  No

**4. Application or patent number(s):**  
A. Patent Application No.(s)  
10/876,964  
12,551,436  
  
Additional numbers attached?  Yes  No

This document is being filed together with a new application.  
B. Patent No.(s)  
7,584,251  
  
 Yes  No

**5. Name and address to whom correspondence concerning document should be mailed:**  
Name: Ross T. Robinson  
WINSTEAD PC  
Internal Address: Atty. Dkt: 50439-P011US  
Street Address: P.O. Box 50784  
  
City: Dallas  
State: TX Zip: 75201  
Phone Number: (214) 745-5185  
Fax Number: (214) 745-5390  
Email Address: robinson@winstead.com

**6. Total number of applications and patents involved:** 3  
**7. Total fee (37 CFR 1.21(h) & 3.41)** \$ 80.00  
 Authorized to be charged to deposit account  
 Enclosed  
 None required (government interest not affecting title)

**9. Signature:**  
[Signature]  
Signature  
Ross T. Robinson - 47,031  
Name of Person Signing

**8. Payment Information**  
Deposit Account Number 23-2426  
Authorized User Name Ross T. Robinson

Date August 23 2010  
Total number of pages including cover sheet, attachments, and documents: 7

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to the Patent and Trademark Office, facsimile no. (571) 273-0140, on the date shown below.  
Dated: August 24, 2010  
Signed by: [Signature] (Brenda I. Brown)

CH \$120.00 232426 10876964

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Street Address: \_\_\_\_\_

9450 Towne Centre Drive  
Suite 100

City: San Diego

State: California

Country: United States of America Zip: 92121

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Deposit Account Number 23-2426

Authorized User Name Ross T. Robinson

9. Signature:

Signature

June 9, 2010  
Date

Ross T. Robinson - 47,031  
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 6

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted by facsimile to the Patent and Trademark Office facsimile no. (571) 273-0140, on the date shown below.

Dated: June 14, 2010

Signature: (Linda L. Brown)

**CERTIFICATE OF MERGER**

**MERGING**

**COLDSPARK, INC.**

**WITH AND INTO**

**CHICKASAW ACQUISITION CORPORATION II**

Pursuant to Section 251 of the General Corporation Law of  
the State of Delaware

The undersigned hereby certifies as follows:

**FIRST.** The name and state of incorporation of each of the constituent corporations participating in the merger herein certified (the "Constituent Corporations") are as follows:

- (i) ColdSpark, Inc., which is incorporated under the laws of the State of Delaware ("Company"); and
- (ii) Chickasaw Acquisition Corporation II, which is incorporated under the laws of the State of Delaware ("Merger Sub").

**SECOND.** An Agreement and Plan of Merger and Reorganization, dated as of June 9, 2009 (the "Merger Agreement"), by and between BakBone Software Incorporated, a Canadian corporation, Company and Merger Sub providing for the merger of Company with and into Merger Sub (the "Merger") has been approved, adopted, certified, executed and acknowledged by each of the Constituent Corporations in accordance with Section 251 of the General Corporation Law of the State of Delaware.

**THIRD.** Upon the filing of this Certificate of Merger with the Secretary of State of the State of Delaware, Company will merge with and into Merger Sub, and Merger Sub will be the surviving corporation (the "Surviving Corporation") and will continue its existence under the name "ColdSpark, Inc."

**FOURTH.** The Certificate of Incorporation of the Surviving Corporation shall be as set forth in Exhibit A attached and, as such, shall be the Certificate of Incorporation of the Surviving Corporation.

sd-471043

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 07:52 PM 06/09/2009  
FILED 07:52 PM 06/09/2009  
SRV 090603151 - 4682449 FILE

**FIFTH.** An executed copy of the Merger Agreement is on file at the principal place of business of the Surviving Corporation. The address of the principal place of business of the Surviving Corporation is 9540 Towne Centre Drive, Suite 100, San Diego, CA 92121.

**SIXTH.** A copy of the Merger Agreement will be furnished by the Surviving Corporation, on request and without cost, to any stockholder of any of the Constituent Corporations.

**SEVENTH.** The effective time and date of the merger herein certified shall be that time and date upon which this Certificate of Merger was filed with the Secretary of State of the State of Delaware.

*[Remainder of page intentionally left blank.]*

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Merger to be executed by its authorized officer this June 9, 2009.

**CHICKASAW ACQUISITION  
CORPORATION II,**  
a Delaware corporation

By: /s/ James R. Johnson  
Name: James R. Johnson  
Title: Chief Executive Officer

*[Signature Page to Certificate of Merger]*

sd-471043

**EXHIBIT A**

**CERTIFICATE OF INCORPORATION OF  
COLDSPARK, INC.**

**ARTICLE I.**

The name of this Corporation is ColdSpark, Inc.

**ARTICLE II.**

The address of the registered office of the Corporation in the State of Delaware is 615 South DuPont Highway, Dover, DE 19901, County of Kent, and the name of its registered agent at such address is National Corporate Research, Ltd.

**ARTICLE III.**

The nature of the business or purposes to be conducted or promoted is to engage in any lawful act or activity for which corporations may be organized under the General Corporation Law of the State of Delaware.

**ARTICLE IV.**

This Corporation is authorized to issue one class of stock to be designated "Common Stock." The total number of shares which the Corporation is authorized to issue is One Hundred (100) shares, par value \$0.0001 per share.

**ARTICLE V.**

A director of the Corporation shall not be personally liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the Corporation or its stockholders, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the General Corporation Law of the State of Delaware, or (iv) for any transaction from which the director derived any improper personal benefit. If the General Corporation Law of the State of Delaware is amended after approval by the stockholders of this Article to authorize corporate action further eliminating or limiting the personal liability of directors then the liability of a director of the Corporation shall be eliminated or limited to the fullest extent permitted by the General Corporation Law of the State of Delaware as so amended.

Any repeal or modification of the foregoing provisions of this Article V by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

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**ARTICLE VI.**

The Corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation, in the manner now or hereafter prescribed by statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

**ARTICLE VII.**

Elections of directors need not be by written ballot unless the Bylaws of the Corporation shall so provide.

**ARTICLE VIII.**

The number of directors which shall constitute the whole Board of Directors of the Corporation shall be fixed from time to time by, or in the manner provided in, the Bylaws of the Corporation or in an amendment thereof duly adopted by the Board of Directors of the Corporation or by the stockholders of the Corporation.

**ARTICLE IX.**

Meetings of stockholders of the Corporation may be held within or without the State of Delaware, as the Bylaws of the Corporation may provide. The books of the Corporation may be kept (subject to any provision contained in the statutes) outside the State of Delaware at such place or places as may be designated from time to time by the Board of Directors of the Corporation or in the Bylaws of the Corporation.

**ARTICLE X.**

Except as otherwise provided in this Certificate of Incorporation, in furtherance and not in limitation of the powers conferred by statute, the Board of Directors of the Corporation is expressly authorized to make, repeal, alter, amend and rescind any or all of the Bylaws of the Corporation.

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