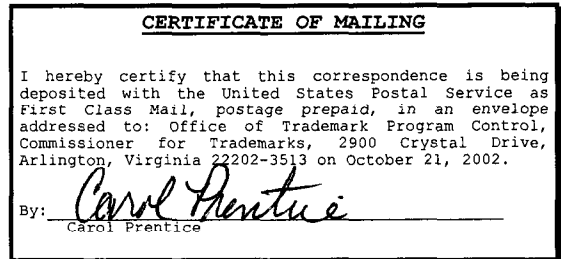


TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
Hyperion Solutions Corporation ) Examining Attorney:  
Application No.: <sup>124752</sup>76/042,824 ) Ronald E. Aikens  
Filed: May 8, 2000 ) Law Office: 103  
Mark: **POINT 'N SYNC** )

**OFFICE OF TRADEMARK PROGRAM CONTROL**  
Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, VA 22202-3513  
**ATTN: Trademark Quality Review Clerk**



AMENDMENT AFTER PUBLICATION

Dear Sir:

The above-referenced trademark application was published on November 20, 2001. Please amend the above-identified application for U.S. Trademark registration as follows:

Amend the identification of goods to read:

--computer software, namely, tools for presenting, organizing, and managing data from a variety of business related software applications via a single view in a multidimensional data base; computer software for creating customizable web portals to manage and analyze business data from a variety of business related software applications, in International Class 9--.

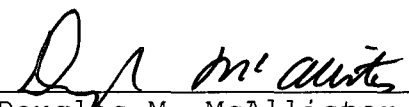
REMARKS

By this amendment, Applicant has clarified that Applicant's computer software is for the creation of customizable web portals, rather than customizable personal web portals. This amendment is entered as part of the settlement of Opposition No. 124,752 filed by Zeeks, Inc. The Opposition has now been settled by agreement of the parties. A copy of the Settlement Agreement is attached hereto. Zeeks, Inc. is in the process of filing a Request for Withdrawal of the Opposition, in accordance with the provisions of the attached Settlement Agreement.

Applicant respectfully requests entry of this amendment after publication and prior to registration of this trademark. Should the Examining Attorney have any questions or require further information, he is invited to telephone Applicant's undersigned attorney.

Respectfully submitted,

Date: October 21, 2002  
**ATTORNEY DOCKET NO.: IMRS-334**

  
\_\_\_\_\_  
Douglas M. McAllister  
Attorney for Applicant(s)  
Registration No. 37,886  
755 Main Street  
Monroe, CT 06468  
(203) 459-0200

### AMENDED CONSENT AGREEMENT

ZEEKS, INC., a Delaware corporation wholly owned by the five individual members of the popular musical group known as \*NSYNC, c/o Philip Baker-Shenk, Esq., Dorsey & Whitney LLP, 1001 Pennsylvania Ave., N.W., Suite 400 South, Washington, D.C. 20004 (hereinafter "ZEEKS"), and

HYPERION SOLUTIONS CORPORATION, a Delaware corporation, having a principal place of business at 1344 Crossman Avenue, Sunnyvale, California 94089 (hereinafter "HYPERION"), have entered into this Agreement as of the date indicated below.

WHEREAS, this Agreement is an amendment to the Consent Agreement entered into between these parties on April 26, 2002 and May 1, 2002, respectively;

WHEREAS, ZEEKS has adopted, uses and owns the trademarks 'N SYNC, NSYNC, and \*NSYNC and Design for a wide range of goods and services identified in Schedule A including, but not limited to, music recordings on tapes and CDs, jewelry items, clothing items, paper products, toys, entertainment services, online retail store services, and online information services (hereinafter "the Goods and Services of Interest to ZEEKS"), and it is the owner of the U.S. Registrations and Applications identified in Schedule A;

WHEREAS, HYPERION has adopted, uses and owns the trademark POINT 'N SYNC for the goods "computer software, namely, tools for presenting, organizing, and managing data from a variety of business related software applications via a single view in a multidimensional data base; computer software for creating customizable personal web portals to provide data from a variety of business related software applications" (hereinafter "the Goods of Interest to HYPERION"), as articulated in the U.S. Application No. 76/042,824 for the trademark POINT 'N SYNC;

WHEREAS, HYPERION has limited its use of the trademark POINT 'N SYNC to the goods and services of computer software for the management and analysis of business data as described and portrayed in the document attached as Exhibit A;

AND WHEREAS, ZEEKS and HYPERION desire to settle any potential controversies between them in the United States, avoid any further controversies and avoid any public confusion resulting from use of their respective trademarks in commerce since the channels of trade and the respective goods and services of ZEEKS and HYPERION are distinctly different;

NOW, THEREFORE, ZEEKS and HYPERION, believing there is no commercial conflict between their respective Goods of Interest, and to ensure that coexistence of their trademarks will not result in public confusion, agree as follows:

1. Covenants

1.1 ZEEKS shall:

A. Not object to the use or registration of the trademark POINT 'N SYNC for the Goods of Interest to HYPERION as amended below;

JG

B. Consent to the continued use or registration by HYPERION of the trademark POINT 'N SYNC for the Goods of Interest to HYPERION as amended below;

C. Not use, apply for, or register any trademarks using the word(s) 'N SYNC or NSYNC or \*NSYNC and Design, or similar marks, for goods or services described in the document attached as Exhibit A.

1.2 HYPERION shall:

A. Attempt to amend its U.S. Application No. 76/042,824 for the trademark POINT 'N SYNC to amend HYPERION'S Goods of Interest to "computer software, namely, tools for presenting, organizing, and managing data from a variety of business related software applications via a single view in a multidimensional data base; computer software for creating customizable [persona] web portals to manage and analyze business data from a variety of business related software applications" and such amendment will be recorded and made of record in U.S. Application No. 76/042,824;

B. Limit its use of the trademark POINT 'N SYNC to the goods or services described and portrayed in the document attached as Exhibit A. Specifically, the POINT 'N SYNC goods and services will be offered only to business and organizations for the purpose of business data management, analysis, and integration through web portals designed to specifically meet each business' or organization's needs.

C. Not use, apply for, or register the trademark POINT 'N SYNC or marks which include the word(s) 'N SYNC, NSYNC, or \*NSYNC and Design for goods or services beyond those described and portrayed in the document attached as Exhibit A or for goods or services that facilitate music content data;

D. Not object to the use or registration of the trademark 'N SYNC or trademarks which include the word(s) 'N SYNC, NSYNC, or \*NSYNC and Design for the Goods and Services of Interest to Zeeks;

E. Consent to the continued use or registration by ZEEKS of the trademark 'N SYNC or trademarks which include the word(s) 'N SYNC, NSYNC, or \*NSYNC and Design for the Goods and Services of Interest to ZEEKS.

2. Miscellaneous

2.1 ZEEKS and HYPERION will not object or otherwise interfere with the use, registration or renewal by the other if such use, registration or renewal conforms to the obligations under this Agreement.

2.2 If such amendment as required to be filed by HYPERION in paragraph 1.2A is not accepted by the United States Patent and Trademark Office, the parties will still be bound by all other provisions of this Agreement.

2.3 Furthermore, if the amendment as proposed in paragraph 1.2A is not accepted by the United States Patent and Trademark Office, ZEEKS will nonetheless withdraw its opposition

proceeding with the understanding that the parties will still be bound by the remaining provisions of this Agreement.

2.3 This Agreement is binding upon successors-in-interest, licensees, affiliates, subsidiaries and/or assigns of both ZEEKS and HYPERION.

2.4 This Agreement constitutes the entire Agreement between ZEEKS and HYPERION and may be amended or supplemented only by a written instrument signed by both parties.

IN WITNESS WHEREOF, ZEEKS and HYPERION have signed this Agreement on the dates set forth below.

ZEEKS, INC.

By: 

Name: Adam Ritholz

Title: Secretary

Dated: 9/25, 2002

HYPERION SOLUTIONS CORPORATION

By: 

Name: Jonathan Gentin

Title: Associate Counsel

Dated: 10/17, 2002

SCHEDULE A

<u>MARK</u>	<u>SERIAL/REG. NO.</u>	<u>GOODS/SERVICES</u>
N SYNC	75/712737	cigarette lighters and cigarette cases not of precious metal (IC 34)  belt buckles not of precious metal for clothing (IC 26)
N SYNC	2,566,552	series of musical sound recording; prerecorded records, audio cassettes, compact discs and CD-ROMs featuring music and lyrics; prerecorded video tapes featuring musical entertainment; laser discs featuring musical entertainment video discs featuring musical entertainment and multimedia software recorded on CD ROM featuring musical entertainment (IC 9)
N SYNC	2,537,763	books, newsletters, pamphlets, magazines, magazine supplements all in the field of entertainment and music; posters; stickers; decals; note cards; stationery, calendars; trading cards; mounted and unmounted photographs; temporary tattoos (IC 16)
N SYNC	2,537,764	jewelry; earrings and ear clips; clocks and watches; ornamental pins; jewelry chains; bracelets; medals; rings; necklaces; cigarette lighters of precious metal and cigarette cases of precious metal; cuff links; pendants; belt buckles of precious metal; charms (IC 14)  entertainment in the nature of live performances by a musical group (IC 41)
N SYNC	75/980619	clothing, namely, hats, caps, visors, headbands, hoods, scarves, neckties, mufflers, shirts, t-shirts, blouses, pullovers, tops, jackets, parkas, coats, sweaters, vests, sweatshirts, sweatpants, shorts, bottoms, skirts, dresses; underwear, namely, boxer shorts, undershorts, underpants, bras, socks, hosiery; footwear, namely, shoes and boots; gloves, mittens; swimwear, beachwear; leotards, leggings, tights; pajamas, robes, loungewear (IC 25)
NSYNC	75/981216	jewelry; earrings and ear clips; clocks and watches; ornamental pins; jewelry chains; bracelets; medals; rings; necklaces; cigarette lighters of precious metal and cigarette cases of precious metal; cuff links; pendants; belt buckles of precious metal; charms (IC 14)
<del>NSYNC</del>	75/981213	jewelry; earrings and ear clips; clocks and watches; ornamental pins; jewelry chains; bracelets; medals; rings; necklaces; cigarette lighters of precious metal and cigarette cases of precious metal; cuff links; pendants; belt buckles of precious metal; charms (IC 14)

NSYNC 75/981217

books, newsletters, pamphlets, magazines, magazine supplements all in the field of entertainment and music; posters; stickers; decals; note cards; stationery, calendars; trading cards; mounted and unmounted photographs; temporary tattoos (IC 16)

~~NSYNC~~ 75/981214

books, newsletters, pamphlets, magazines, magazine supplements all in the field of entertainment and music; posters; stickers; decals; note cards; stationery, calendars; trading cards; mounted and unmounted photographs; temporary tattoos (IC 16)

NSYNC 75/981218

clothing, namely, hats, caps, visors, headbands, hoods, scarves, neckties, mufflers, shirts, t-shirts, blouses, pullovers, tops, jackets, parkas, coats, sweaters, vests, sweatshirts, sweatpants, shorts, bottoms, skirts, dresses; underwear, namely, boxer shorts, undershorts, underpants, bras, socks, hosiery; footwear, namely, shoes and boots; gloves, mittens; swimwear, beachwear; leotards, leggings, tights; pajamas, robes, loungewear; belts (IC 25)

~~NSYNC~~ 75/981215

clothing, namely, hats, caps, visors, headbands, hoods, scarves, neckties, mufflers, shirts, t-shirts, blouses, pullovers, tops, jackets, parkas, coats, sweaters, vests, sweatshirts, sweatpants, shorts, bottoms, skirts, dresses; underwear, namely, boxer shorts, undershorts, underpants, bras, socks, hosiery; footwear, namely, shoes and boots; gloves, mittens; swimwear, beachwear; leotards, leggings, tights; pajamas, robes, loungewear; belts (IC 25)

NSYNC 76/028412

musical sound recordings; prerecorded records, audio cassettes, compact discs and CD-Roms featuring music and lyrics; prerecorded video tapes featuring musical entertainment; laser discs featuring musical entertainment; video discs featuring musical entertainment; multimedia software recorded on CD-Rom featuring musical entertainment (IC 9)

mail order services and computerized on-line ordering services featuring musical sound recordings; prerecorded records, audio cassettes, compact discs and CD-Roms featuring music and lyrics; prerecorded video tapes featuring musical entertainment; laser discs featuring musical entertainment; video discs featuring musical entertainment; multimedia software recorded on CD-Rom featuring musical entertainment; jewelry; earrings and ear clips; clocks and watches; ornamental pins; chains; bracelets; medals; rings; necklaces; cigarette lighters and cigarette cases; cuff links; pendants; belt buckles of precious metal; charms; books, newsletters, pamphlets, magazines, magazine supplements all in the field of entertainment and music; posters; stickers; decals; note

cards; stationery, calendars; trading cards; mounted and unmounted photographs; temporary tattoos; clothing, namely, hats, caps, visors, headbands, hoods, scarves, neckties, mufflers, shirts, t-shirts, blouses, pullovers, tops, jackets, parkas, coats, sweaters, vests, sweatshirts, sweatpants, shorts, bottoms, skirts, dresses; underwear, namely, boxer shorts, undershorts, underpants, bras, socks, hosiery; footwear, namely, shoes and boots; gloves, mittens; swimwear, beachwear; leotards, leggings, tights; pajamas, robes, loungewear; belts (IC 35)

providing an on-line computer database via a global computer network featuring information about a musical group featuring news, interviews, schedules of releases of sound recordings, schedule of releases of video recordings, schedules of releases of laser and digital recordings, schedules of releases of multimedia software, schedules of releases of collectible, fashion, apparel, jewelry and printed matter merchandise, schedules of tours, schedules of travel, schedules of live and prerecorded musical performances, schedules of live and prerecorded personal appearances; providing an on-line computer database via a global computer network featuring music, music concerts, music videos and music video clips of a musical group; entertainment in the nature of live performances by a musical group (IC 41)

belt buckles not of precious metal for clothing (IC 26)

cigarette lighters and cigarette cases not of precious metal (IC 34)

NSYSNS

76/028413

musical sound recordings; prerecorded records, audio cassettes, compact discs and CD-Roms featuring music and lyrics; prerecorded video tapes featuring musical entertainment; laser discs featuring musical entertainment; video discs featuring musical entertainment; multimedia software recorded on CD-Rom featuring musical entertainment (IC 9)

mail order services and computerized on-line ordering services featuring musical sound recordings, prerecorded records, audio cassettes, compact discs and CD-Roms featuring music and lyrics; prerecorded video tapes featuring musical entertainment; laser discs featuring musical entertainment; video discs featuring musical entertainment; multimedia software recorded on CD-Rom featuring musical entertainment; jewelry, earrings and ear clips; clocks and watches; ornamental pins; chains; bracelets; medals; rings; necklaces; cigarette lighters and cigarette cases; cuff links; pendants; belt buckles of precious metal; charms; books, newsletters, pamphlets, magazines, magazine supplements all in



the field of entertainment and music; posters; stickers; decals; note cards; stationery, calendars; trading cards; mounted and unmounted photographs; temporary tattoos; clothing, namely, hats, caps, visors, headbands, hoods, scarves, neckties, mufflers, shirts, t-shirts, blouses, pullovers, tops, jackets, parkas, coats, sweaters, vests, sweatshirts, sweatpants, shorts, bottoms, skirts, dresses; underwear, namely, boxer shorts, undershorts, underpants, bras, socks, hosiery; footwear, namely, shoes and boots; gloves, mittens; swimwear, beachwear; leotards, leggings, tights; pajamas, robes, loungewear; belts (IC 35)

providing an on-line computer database via a global computer network featuring information about a musical group featuring news, interviews, schedules of releases of sound recordings, schedule of releases of video recordings, schedules of releases of laser and digital recordings, schedules of releases of multimedia software, schedules of releases of collectible, fashion, apparel, jewelry and printed matter merchandise, schedules of tours, schedules of travel, schedules of live and prerecorded musical performances, schedules of live and prerecorded personal appearances; providing an on-line computer database via a global computer network featuring music, music concerts, music videos and music video clips of a musical group; entertainment in the nature of live performances by a musical group (IC 41)

belt buckles not of precious metal for clothing (IC 26)

cigarette lighters and cigarette cases not of precious metal (IC 34)

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )  
 )  
 Hyperion Solutions Corporation ) Examining Attorney:  
 ) Ronald E. Aikens  
 Application No.: 76/042,824 )  
 ) Law Office: 103  
 Filed: May 8, 2000 )  
 )  
 Mark: **POINT 'N SYNC** )

**OFFICE OF TRADEMARK PROGRAM CONTROL**  
 Commissioner for Trademarks  
 2900 Crystal Drive  
 Arlington, VA 22202-3513  
**ATTN: Trademark Quality Review Clerk**

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to OFFICE OF TRADEMARK PROGRAM CONTROL, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, ATTN: Trademark Quality Review Clerk, on Oct. 21, 2002.

By: *Carol Prentice*  
 Carol Prentice

TRANSMITTAL OF AMENDMENT AFTER PUBLICATION

Dear Sir:

Enclosed please find the following documents:

- Return receipt postage prepaid postcard
- Amendment After Publication - 2 pages plus attachment

Respectfully submitted,

*Douglas M. McAllister*  
 Douglas M. McAllister  
 Attorney for Applicant(s)  
 Registration No. 37,886  
 755 Main Street, Bldg. 8  
 Monroe, CT 06468  
 (203) 459-0200

**Attorney Docket No.: IMRS-334**  
**Date: October 21, 2002**

RECEIVED  
 OCT 21 2002  
 LAW OFFICE  
 TRADEMARK TRIAL AND  
 APPEALS BOARD  
 02 NOV 12 AM 9:30