

# FOLEY & LARDNER

ATTORNEYS AT LAW

CHICAGO  
DENVER  
JACKSONVILLE  
LOS ANGELES  
MADISON  
MILWAUKEE  
ORLANDO

FIRSTAR CENTER  
777 EAST WISCONSIN AVENUE  
MILWAUKEE, WISCONSIN 53202-5367  
TELEPHONE (414) 271-2400  
FACSIMILE (414) 297-4900

SACRAMENTO  
SAN DIEGO  
SAN FRANCISCO  
TALLAHASSEE  
TAMPA  
WASHINGTON, D.C.  
WEST PALM BEACH

EMAIL ADDRESS  
daboehm@foleylaw.com

WRITER'S DIRECT LINE  
(414) 297-5718

May 25, 2000

## CONFIDENTIAL

Mr. Brian G. Utley  
President  
Iviewit.com, Inc.  
One Boca Place  
2255 Glades Road, Suite 337 West  
Boca Raton, Florida 33431

*Elist  
your copy  
per Brian*

Re: Iviewit Patent Notebook  
Our Ref.: 57103/101

Dear Brian:

Enclosed for your reference please find a notebook enclosing copies of all the Iviewit patent applications that are presently on file with the United States Patent and Trademark Office and the World Intellectual Property Office.

Please note that this information is highly confidential, as U.S. patent applications are maintained in secrecy until issuance, and PCT international patent applications are maintained in secrecy until they are published at 18 months from their priority date.

Very truly yours,

*Doug Boehm*  
Douglas A. Boehm

Enclosure

# FOLEY & LARDNER

ATTORNEYS AT LAW

CHICAGO  
DENVER  
JACKSONVILLE  
LOS ANGELES  
MADISON  
MILWAUKEE  
ORLANDO

FIRSTAR CENTER  
777 EAST WISCONSIN AVENUE  
MILWAUKEE, WISCONSIN 53202-5367  
TELEPHONE (414) 271-2400  
FACSIMILE (414) 297-4900

SACRAMENTO  
SAN DIEGO  
SAN FRANCISCO  
TALLAHASSEE  
TAMPA  
WASHINGTON, D.C.  
WEST PALM BEACH

EMAIL ADDRESS  
daboehm@foleylaw.com

WRITER'S DIRECT LINE  
(414) 297-5718

May 19, 2000

Mr. Brian G. Utley  
President  
Iviewit.com, Inc.  
One Boca Place  
2255 Glades Road, Suite 337 West  
Boca Raton, Florida 33431

Re: Dr. Taylor Consulting Agreement  
Our Ref.: 57103/101

Dear Brian:

Enclosed please find the original Consulting Agreement signed by Dr. Christopher C. Taylor. Please note that I had to change the period of confidentiality in Section 4.2 to seven years. This is the only change made from the previous version you reviewed.

Please sign and date the agreement, and either return the original agreement to me (so I can keep the original and send you your copy) or send me three copies (so you can keep the original in your files), whichever you prefer.

Very truly yours,



Douglas A. Boehm

Enclosure

## Consulting Agreement

THIS CONSULTING AGREEMENT ("this Agreement") is effective as of May 15, 2000, by and between Dr. Christopher C. Taylor, an individual having a principal address at 4133 North 99th Street, Wauwatosa, Wisconsin 53222 ("CONSULTANT"), and Iviewit.com, Inc., a limited liability company having a principal address at One Boca Place, 2255 Glades Road, Suite 337 West, Boca Raton, Florida 33431 (the "COMPANY").

WHEREAS, CONSULTANT has extensive knowledge and expertise in the electrical engineering and computer science arts, and particularly in the field of digital image processing and related technologies; and

WHEREAS, the COMPANY desires to utilize the services of CONSULTANT in the performance of research, design, development, and documentation of various projects in the fields of digital imaging, streaming video, internet videoconferencing, and related internet technologies, and CONSULTANT wishes to provide its services to the COMPANY in accordance with the terms and conditions hereof.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the parties agree as follows:

### 1. DEFINITIONS

- 1.1 "Consulting Services" means any research, design, development, support, training, documentation, and related services performed by CONSULTANT for the COMPANY under this Agreement.
- 1.2 "Work Product" means any reports, documentation, data compilations, calculations, computer software programs, enhancements, and any other media, materials, or other objects produced as a result of CONSULTANT's work or delivered by CONSULTANT to the COMPANY in the course of performing Consulting Services.
- 1.3 "Background Technology" means any work or materials that were in existence before the effective date of this Agreement or that are otherwise created outside the scope the services performed for the COMPANY under this Agreement, including, but not limited to, any computer software programs, routines, libraries, data, development tools, methodologies, processes, algorithms, or other technologies created, adapted, or used by CONSULTANT in its business generally.
- 1.4 "Inventions" means any and all discoveries, improvements, designs, and inventions, whether or not patentable, including, but not limited to, any new or improved products, processes, methods, machines, systems, computer software, compositions of matter, and further including, but not limited to, any other subject matter for which a patent or inventor's certificate may be obtained therefor, specifically including new or improved methods of doing business and related software and documentation.
- 1.5 "Creative Works" means any and all original works of authorship fixed in any tangible medium of expression, including, but not limited to, writings, compilations of data, charts, drawings, software, screen displays, videos, photographs, graphics,

music, designs, and mask works, and further including, but not limited to, any other subject matter for which copyright or mask work protection would apply, specifically including technical reports, original or revised computer software, advertising and marketing materials, instructional and procedural manuals, and related documents and copies thereof.

- 1.6 "Confidential Information" means information related to the COMPANY's business that is not generally known in the trade or industry and that the COMPANY considers to be of a confidential and/or proprietary nature, including but not limited to: (i) all technical and business information of the COMPANY; (ii) any information obtained from the COMPANY or developed by CONSULTANT in connection with services performed for the COMPANY of which CONSULTANT is informed or has reason to believe is of a proprietary and/or confidential nature; (iii) any information that is disclosed in confidence to the COMPANY by customers, suppliers, and other third parties; and (iv) any information that could be considered Inventions, Creative Works, trade secrets, or know-how owned by the COMPANY. "Confidential Information" includes, but is not limited to, information relating to the COMPANY's products and services, computer programs and data, business methods and plans, marketing strategies, revenue figures, financial analyses, employee and customer information, and intellectual property and other legal matters. "Confidential information" does not include any information that can be shown by substantial written evidence: (a) was in CONSULTANT's possession or known to CONSULTANT, without an obligation to keep it confidential, before such information was disclosed to CONSULTANT by the COMPANY or developed for the COMPANY by CONSULTANT; or (b) is or becomes public knowledge through a source other than CONSULTANT and through no fault of CONSULTANT; or (c) is or becomes lawfully available to CONSULTANT from a source other than the COMPANY.
- 1.7 "Intellectual Property Rights" means the collection of proprietary legal rights in such items as Work Product, Background Technology, Inventions, Creative Works, Confidential Information, and other related forms of tangible and intangible property that can be protected under various patent, copyright, mask work, trademark, trade secret and know-how, and related laws.

## 2. SCOPE OF SERVICES

- 2.1 Consulting Services. CONSULTANT agrees to perform Consulting Services from time to time for the COMPANY during the term of this Agreement as the COMPANY may reasonably request. The number of hours and the time and place of performance of the Consulting Services hereunder shall be determined by mutual agreement of the parties.
- 2.2 Conduct of Services. All Consulting Services shall be performed personally by CONSULTANT in a workmanlike and professional manner, and the Work Product will comply with generally prevailing professional standards of the industry.
- 2.3 Method of Performing Services. CONSULTANT shall have the right to determine the method, details, and means of performing the Consulting Services. The COMPANY shall, however, be entitled to exercise general power of supervision and control over

the results of the Consulting Services performed by CONSULTANT to assure satisfactory performance, including the right to inspect, the right to stop work, the right to make suggestions or recommendations as to the details of the work, and the right to propose modifications to the work.

2.4 Scheduling. CONSULTANT will use its best efforts to accommodate work schedule requests by the COMPANY.

2.5 Reporting. The COMPANY and CONSULTANT shall develop appropriate administrative procedures for coordinating with each other.

### 3. FEES, EXPENSES, AND PAYMENT

3.1 Fees. In consideration of the Consulting Services to be performed by CONSULTANT hereunder, CONSULTANT shall be entitled to compensation from the COMPANY at the rate of one-hundred dollars (\$100.00) per hour, or proportionately for any fractions thereof, spent performing work authorized by the COMPANY. Different hourly rates or alternative fee structures may be used for a particular project if mutually agreed upon in writing by the parties before work on any such project has begun.

3.2 Expenses. Payment of CONSULTANT's fees will cover all ancillary expenses, such as office supplies, telephone charges, and secretarial expenses. In addition to the foregoing fees, the COMPANY shall reimburse CONSULTANT for its actual out-of-pocket expenses as reasonably incurred by CONSULTANT in furtherance of its performance hereunder. The COMPANY will further reimburse CONSULTANT for all reasonable travel and subsistence expenses that are incurred for any trips CONSULTANT is requested to make by the COMPANY.

3.3 Payment. Such fees and expenses will be paid within thirty (30) days of receipt by the COMPANY of appropriate invoices and supporting documentation submitted on a monthly basis. Such supporting documentation would include receipts, ledgers, and other records as may be reasonably appropriate for the COMPANY or its accountants to verify the amount and nature of any such expenses.

3.4 Records. For a period of one (1) year after payment of each invoice referenced above, CONSULTANT shall maintain accounting records and supporting documentation in sufficient detail to substantiate charges for the Consulting Services performed hereunder. CONSULTANT shall permit such records and documentation to be examined by the COMPANY upon reasonable notice and during normal business hours.

3.5 Maximum Charges. CONSULTANT is not authorized to charge time beyond eight hours per day, or beyond a total of five thousand dollars (\$5000.00) under his Agreement, without obtaining specific prior written approval from the COMPANY.

### 4. CONFIDENTIALITY

4.1 Confidentiality. CONSULTANT acknowledges that in order to perform the Consulting Services hereunder, it shall be necessary for the COMPANY to disclose

to CONSULTANT certain Confidential Information. CONSULTANT agrees that, unless it has obtained express prior written consent from a duly authorized representative of the COMPANY to do otherwise, it shall: (i) treat as confidential and protect the secrecy of any Confidential Information in CONSULTANT's possession or control; (ii) not disclose, publish, or otherwise make any Confidential Information available or known to the public or to any third party; and (iii) not use any Confidential Information for the benefit of any person or organization, including CONSULTANT, except as and to the extent necessary for the purpose of performance under this Agreement.

- 4.2 Survival. CONSULTANT's obligations regarding the Confidential Information shall survive termination of this Agreement and shall continue for a period of seven (7) years after the date of disclosure of any Confidential Information to CONSULTANT.

## 5. RIGHTS IN WORK PRODUCT

- 5.1 Ownership of Work Product. Except to the extent Background Technology is included in the Work Product as authorized under this Agreement, all Work Product, and all Intellectual Property Rights therein, shall be owned exclusively by the COMPANY.
- 5.2 Rights in Background Technology. CONSULTANT may include Background Technology in the Work Product only if (i) it is provided to CONSULTANT by the COMPANY, or (ii) it is owned or licensable without restriction by CONSULTANT. The COMPANY shall have no ownership interest in or other right to use Background Technology owned or licensed by CONSULTANT, except as necessary to exercise its rights in the Work Product. To the extent that Background Technology owned or licensed by CONSULTANT is to be included in the Work Product, CONSULTANT shall identify to the COMPANY any such Background Technology prior to commencement of the Consulting Services involving such Background Technology. CONSULTANT hereby grants and agrees to grant to the COMPANY a perpetual, irrevocable, nonexclusive, worldwide, royalty-free right and license to manufacture, have manufactured, use, offer for sale, sell, import, execute, reproduce, display, perform, and distribute, both internally and externally, copies of, and prepare derivative works based upon, such Background Technology, and the right to authorize others to do any of the foregoing.
- 5.3 Submission of Inventions and Creative Works. CONSULTANT agrees to promptly submit, to a designated representative of the COMPANY, a written description of all discoveries, improvements, designs, writings, and all Inventions and Creative Works, whether or not patentable or copyrightable, that CONSULTANT may conceive or make or author, either solely or jointly with others, at any time during the performance of Consulting Services hereunder, that relate to the Work Product; and CONSULTANT further agrees to create, maintain, preserve, and make available to the COMPANY as part of the COMPANY's property, complete, accurate, and up-to-date records, including but not limited to, correspondence, prototypes, models, drafts, and other written or tangible data, of all such inventive and creative activity. The COMPANY agrees to promptly consider any written request to maintain any such submission in confidence.

- 5.4 Ownership of Inventions. CONSULTANT hereby assigns and agrees to assign to the COMPANY all of its right, title, and interest in any Inventions relating to the Work Product conceived or made, either solely or jointly with others, at any time during the performance of Consulting Services hereunder, and CONSULTANT agrees that ownership is and shall reside in the COMPANY; except, however, that this assignment does not apply to the Background Technology. CONSULTANT further agrees that any such Invention first reduced to practice within one (1) year after termination of this Agreement shall be treated as if conceived during the term of this Agreement unless CONSULTANT can establish specific events giving rise to the conception that occurred after such termination. CONSULTANT has specifically listed, in an attachment to this Agreement to be entitled "List of All CONSULTANT's Prior Intellectual Property Rights", any and all Inventions conceived or made or acquired prior to this Agreement, and CONSULTANT hereby disclaims ownership of and agrees not to assert against the COMPANY any Intellectual Property Rights in any Inventions not so listed.
- 5.5 Ownership of Creative Works. CONSULTANT acknowledges that all Creative Works that are covered by the definition of a "work made for hire" under 17 U.S.C. § 101 of the U.S. Copyright Act of 1976 will be considered a "work made for hire", and the COMPANY will be regarded as the author and owner of all copyrights in any such works. As to any Creative Works that are not "works made for hire" under the Copyright Act, such that CONSULTANT is regarded as the copyright author and owner, CONSULTANT hereby assigns and agrees to assign to the COMPANY all of its right, title, and interest in any such Creative Works relating to the Work Product authored, either solely or jointly with others, at any time during the performance of the Consulting Services hereunder, and CONSULTANT agrees that ownership is and shall reside in the COMPANY; except, however, that this assignment does not apply to the Background Technology.
- 5.6 Cooperation. Both during the term and after termination of this Agreement, CONSULTANT agrees to cooperate with the COMPANY and to promptly review, sign, and return all documents, communicate all pertinent information, and provide any other assistance reasonably requested by the COMPANY to obtain, maintain, enforce, and defend its Intellectual Property Rights in the Work Product and to vest in the COMPANY all of its rights therein free of all encumbrances and adverse claims. The COMPANY agrees to reimburse CONSULTANT for any reasonable expenses actually incurred in connection therewith.

## 6. ASSURANCES

- 6.1 Personal Services. CONSULTANT hereby agrees that only CONSULTANT shall perform Consulting Services for the COMPANY under this Agreement.
- 6.2 Warranty of Title. CONSULTANT represents and warrants that it either owns or has the right to license the Work Product provided to the COMPANY under this Agreement, including any Background Technology used in the Work Product, but excluding any Work Product owned by the COMPANY. CONSULTANT shall not include or use any Background Technology in the Work Product that would conflict with CONSULTANT's obligations under this Agreement.

- 6.3 Warranty of Originality. CONSULTANT represents and warrants that all works of authorship in the Work Product are original and have not been copied or derived from a third party's work, except to the extent Background Technology is included in the Work Product as authorized under this Agreement.
- 6.4 No Third Party Information. CONSULTANT represents and warrants that it will not disclose to the COMPANY, nor make use of during the Consulting Services hereunder, any trade secrets or other proprietary information of any third party, unless CONSULTANT may do so without CONSULTANT or the COMPANY incurring any obligation, past or future, to such third party for such work or any future application thereof.
- 6.5 Source Code. All software provided to the COMPANY as Work Product under this Agreement shall include the source code if any exists.
- 6.6 Limited Warranty of Infringement. CONSULTANT represents and warrants that it will not knowingly infringe on the Intellectual Property Rights of any third party in performing Consulting Services and in providing Work Product to the COMPANY under this Agreement.
- 6.7 No Liability for the Company. The COMPANY shall have no liability to CONSULTANT and CONSULTANT shall indemnify and hold the COMPANY harmless from any and all claims for property loss and injury (including death) to CONSULTANT that may result in connection with the performance of Consulting Services hereunder, provided that such injuries are not a result of the sole intentional or negligent acts of the COMPANY or its employees.
- 6.8 No Conflict. CONSULTANT represents and warrants that it has no activities or obligations with any third party that will in any way conflict with or limit or restrict CONSULTANT's ability to perform the Consulting Services for the COMPANY hereunder. In case of doubt, prior to commencing such activities or obligations, CONSULTANT will review the area of possible conflict with appropriate representatives of the COMPANY.
- 6.9 Non-Competition. CONSULTANT hereby agrees that, during the term of this Agreement and for a period of one (1) year after termination of this Agreement, in any state or country in which the COMPANY is selling products or services or is actively preparing to sell products or services relating to the Work Product, CONSULTANT shall not directly or indirectly engage in competition with the COMPANY or perform consulting services for any competitor of the COMPANY under circumstances in which CONSULTANT would reasonably be expected to call upon, refer to, or use any Confidential Information.

## 7. TERM AND TERMINATION

- 7.1 Term. The term of this Agreement shall commence on the date set forth above and shall continue for a minimum period of one (1) year, and shall continue thereafter for so long as the COMPANY seeks or obtains services from CONSULTANT unless terminated earlier in accordance with this Agreement.



7.2 Termination. Either party may terminate this Agreement with or without cause upon thirty (30) days prior written notice to the other party. Such termination will not relieve either party of obligations incurred hereunder prior to such termination, nor relieve CONSULTANT of the obligations regarding Confidential Information set forth above.

7.3 Remaining Payments. Within sixty (60) days of termination of this Agreement for any reason, CONSULTANT shall submit to the COMPANY an itemized invoice for any fees or expenses previously accrued under this Agreement.

7.4 Return of Property. Upon termination of this Agreement, or at any time upon request by the COMPANY, CONSULTANT shall promptly deliver to the COMPANY the original and all copies of all documents, records, data, software, materials, equipment, and other property, of any nature whatsoever, in CONSULTANT's possession or control that are the property of the COMPANY or that contain Confidential Information or that were received or prepared by CONSULTANT in connection with the performance of Consulting Services hereunder.

## 8. MISCELLANEOUS

8.1 Notices. All notices required or permitted hereunder shall be in writing addressed to the respective parties as set forth herein, unless another address shall have been designated, and shall be delivered by hand or by registered or certified mail, postage prepaid.

8.2 Independent Contractors. The parties are and shall be independent contractors to one another, and nothing herein shall be deemed to cause this Agreement to create an agency, partnership, or joint venture between the parties. Neither party shall have the power to act on behalf of or bind the other party without its prior written consent. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the COMPANY and CONSULTANT.

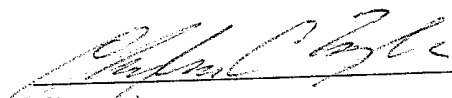
8.3 Enforcement. CONSULTANT understands and acknowledges that its obligations to assign certain Intellectual Property Rights and to not disclose or use the Confidential Information are special, unique, and of extraordinary character, for which an action at law for monetary damages would not be adequate in the event of a breach. Therefore, CONSULTANT hereby agrees that for any actual or threatened breach, the COMPANY shall be entitled, in addition to any other remedies available to it, to specific performance, to injunctive relief, or to any other equitable relief that the court may find just and proper to enforce this Agreement, along with recovering reasonable attorneys' fees and costs of prosecuting any action.

8.4 No Waiver. The failure of one party to insist, in any one or more instances, upon performance of any of the terms or conditions of this Agreement by the other party shall not be construed as a waiver or relinquishment of any rights granted hereunder or of the further performance of any such term or condition.

- 8.5 Severability. The parties agree that if any part, term, or provision of this Agreement shall be found illegal or in conflict with any valid controlling law, the validity of the remaining provisions shall not be affected by such finding.
- 8.6 No Assignment. Neither party may assign this Agreement, or any interest herein or any obligation or right hereunder, without the prior written consent of the other party. Any prohibited assignment shall be null and void.
- 8.7 Entire Agreement. This Agreement constitutes the entire agreement of the parties hereto and supersedes all prior representations, proposals, discussions, and communications, whether oral or in writing. This Agreement may be modified only in writing and shall be enforceable in accordance with its terms when signed by the party sought to be bound.
- 8.8 Governing Law. This Agreement shall be governed and construed in all respects in accordance with the laws of the State of Florida as they apply to a contract entered into and performed in that State.

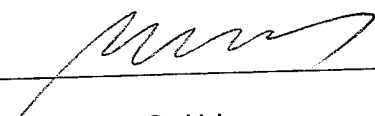
IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives, effective as of the date and year first written above.

**Dr. Christopher C. Taylor**

  
 \_\_\_\_\_  
 (Signature)  
 5-18-2000  
 \_\_\_\_\_  
 (Date)

**lviewit.com, Inc.**

By:

  
 \_\_\_\_\_  
 (Signature)  
 Brian G. Utley  
 \_\_\_\_\_  
 (Printed Name)  
 President  
 \_\_\_\_\_  
 (Title)  
 5/20/00  
 \_\_\_\_\_  
 (Date)

Section 5.4 attachment?  Yes  No