

## **CASE FILE**

### **Arbitration of Dispute concerning Computer Software Copyright**

**Guangzhou Sea & Skytech Software Co., Ltd. v.  
US Hongtu International Investment Inc.**

(This case file is compiled by WANG Shu,  
DONG Jinbo, LIU Ying, FENG Qin and XU Bing)

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## **FACT SUMMARY**

In early 2000, Guangzhou Sea & Skytech Co., Ltd. (hereinafter referred to as “Chinese Party”) and US Hongtu International Investment Inc. (hereinafter referred to as “Foreign Party”) entered into a cooperation agreement to establish a joint venture, namely, Guangzhou Donghua Technology Co., Ltd (hereinafter referred to as “Joint Venture Company”). Said agreement includes a “non-compete clause” and special agreement that the title to the intellectual property listed in Appendix 3 shall be transferred to the Joint Venture Company within one month after execution of the Agreement.

Upon execution of the Cooperation Agreement, the Chinese Party established Guangzhou Sea & Skytech Software Co., Ltd. (hereinafter referred to as “Third Party Subsidiary”) with which the Chinese Party continued to develop products relating to the computer software listed in Appendix 3. The Foreign Party contended that the Chinese Party engaged in parallel competition against the Joint Venture Company, which was in breach of the “non-compete clause” in the Cooperation Agreement, so it initiated arbitration with the China International Economic and Trade Arbitration Commission (CIETAC) which made the Arbitration Award No. 0029 against the Chinese Party for breach of agreement and ordered

the Chinese Party to return the profits from said breach of agreement to the Joint Venture Company.

Thereafter, the Chinese Party also initiated arbitration proceedings on the ground of failure to fulfill the goals of the joint venture, claiming that the Cooperation Agreement be terminated and the Joint Venture Company be dissolved. It was granted Arbitration Award No. 0170 which sustained said claims. The Chinese Party registered the copyright of the computer software (YUYU Software and WW Software) which was developed prior to and in the course of the joint venture (hereinafter referred to as “Software Copyright”) both in its own name and in the name of the Third Party Subsidiary, and it had earned profits from business operations using the Software Copyright but refused to execute Award 0029, so the joint venture has not been liquidated yet.

For the aforesaid reasons, the Foreign Party initiated arbitration for the third time, asking the arbitrators to find that the Chinese Party and its Third Party Subsidiary have infringed the Software Copyright of the Joint Venture Company and should be required to return the Software Copyright in dispute; that the Chinese Party should compensate the Joint Venture Company for losses equivalent to the amount of the profits gained from its breach of agreement and bear all costs that the Foreign Party has

incurred as a result of preventing such breach of agreement. (The Foreign Party calculated the losses from breach of agreement on the basis of the income disclosed in the Prospectus of Ginosoft. Ginosoft is a UK-based holding company of Imfotech which is a Singapore-based holding company of two subsidiary companies for business operations, namely, Guangzhou Sea & Skytech Co., Ltd. and Guangzhou Sea & Skytech Software Co., Ltd. In this case, the prospectus of Ginosoft is the only evidence based on which the costs of breach of agreement are calculated, and the amounts stated in the financial statements may be neglected.)

Note: Both YUYU and WW are software eligible for export tax rebates. The former had been successfully developed by the Chinese Party prior to the execution of the Cooperation Agreement; while the latter was jointly developed by the Chinese Party and its subsidiary in the course of the joint venture. WW is an updated version of YUYU. The Foreign Party claims that the intellectual property which the Chinese Party was to transfer under the Cooperation Agreement is MIS listed in Appendix 3, and YUYU and WW are included in MIS; while the Chinese Party claims that MIS includes security software only, excluding any software eligible for export tax rebates, so its development of the latter is not in breach of the Agreement. It also claims that in the event that MIS includes software eligible for export tax rebates, it includes YUYU only but not WW

because WW was jointly developed by the Chinese Party and the Third Party Subsidiary after the establishment of the Joint Venture Company.

## APPLICATION FOR ARBITRATION

CLAIMANT: US Hongtu International Investment Inc. (hereinafter referred to as “Company B”)

Add.: 3 Happy Ave, Seattle, US

Legal Representative: MA Ketong

Tel.: 001-200-706-9444

RESPONDENT: Guangzhou Sea & Skytech Co., Ltd. (hereinafter referred to as “Company A”)

Add.: 1 Baogang Ave, Haizhu District, Guangzhou, 510220, P.R. China

Legal Representative: WU Tianzhong

Tel.: 8620-34384321

**Cause of Action:** Breach of Cooperation Agreement

### **Award Requested:**

The Tribunal should find that:

1. The Respondent breached the agreement by registering the Software Copyright to which the Joint Venture Company should have had title in its own name and in the name of its subsidiary;
2. The Software Copyright in dispute should be returned to the Joint Venture Company;
3. The Respondent should surrender to the Joint Venture Company both

the Software Copyright which it has held in breach of the agreement and all profits and interests thereof; and

4. The Chinese Party should bear the costs of the arbitration and the reasonable costs which the Claimant has incurred for the purpose of preventing breach of the agreement, totaling xxx Chinese RMB.

### **Facts and Legal Arguments:**

The Claimant and the Respondent entered into the Sino-Foreign Cooperation Agreement on January 31, 2000. By this agreement, both parties agreed that for the purposes of establishing a Sino-foreign cooperative joint venture, the Claimant would invest four million (4,000,000.00) Chinese *RMB*, and the Respondent would invest all human resources, assets and physical property. In addition, in accordance with Appendix 3 of the Cooperation Agreement, the Chinese Party would transfer its title to intellectual property held by it to the Joint Venture Company as part of its investment.

However, after the Cooperation Agreement took effect, the Respondent registered in its own name and in the name of its subsidiary (Guangzhou Sea & Skytech Software Co., Ltd.) the Software Copyright which was to be transferred to the Joint Venture Company, which constituted a breach of the agreement and caused huge losses to both the Joint Venture

Company and the Claimant.

For the purposes of protecting the legitimate rights and interests of the Claimant, we hereby submit this Application for Arbitration to the China International Economic and Trade Arbitration Commission in accordance with the arbitration clause in said agreement.

To the China International Economic and Trade Arbitration Commission

CLAIMANT: US Hongtu International Investment Inc.

(Signature and/or Stamp)

This tenth day of February two thousand  
and six (2006)

**Appendices:**

1. Four duplicates of this Application for Arbitration
2. Five copies of Business License and Certificate of Legal Representative
3. Five copies of Evidence

## STATEMENT OF DEFENSE

RESPONDENT: Guangzhou Sea & Skytech Co., Ltd. (hereinafter referred to as “Company A”)

Addr.: 1 Baogang Ave, Haizhu District, Guangzhou, 510220, P.R. China

Legal Representative: WU Tianzhong                      Tel.: 8620-34384321

CLAIMANT: US Hongtu International Investment Inc. (hereinafter referred to as “Company B”)

Addr.: 3 Happy Ave, Seattle, US

Legal Representative: MA Ketong                      Tel.: 001-200-706-9444

The Respondent hereby comments on the Application for Arbitration against the Respondent filed by US Hongtu International Investment Inc. with the Commission concerning the dispute over the Software Copyright as follows:

1. The claims by the Claimant are beyond the scope of arbitration. The scope and content of arbitration shall be agreed upon between the two parties, and the arbitration agreement only binds the two parties. In accordance with the Cooperation Agreement entered into between the

Respondent and the Claimant, the Respondent has never entered into any arbitration agreement with any party concerning the title to the Software Copyright. Moreover, such title involves another right owner (Guangzhou Sea & Skytech Software Co., Ltd.). Therefore, the claims by the claimant are beyond the jurisdiction of arbitration, and the arbitration tribunal has no jurisdiction over this dispute.

2. The Claimant is not entitled to request return of the Software Copyright to the Joint Venture Company. Firstly, the Respondent and the Foreign Party have reached an agreement that the intellectual property to be transferred to the Joint Venture Company is MIS which includes security software but not software eligible for export tax rebates. Therefore, the Respondent did not breach the agreement by developing software eligible for export tax rebates. Moreover, even in the event that the arbitration tribunal finds YUYU software included in MIS eligible for export tax rebates, WW software eligible for export tax rebates and listed in the Claimant's request was jointly developed by the Respondent and its subsidiary independently of any other party and differs significantly from YUYU software. That the Respondent registered such independently developed software in its own name and in the name of its subsidiary is in no breach of the agreement and is thus legal. Therefore, no ground can support the claim for return of the Software Copyright to the Joint

Venture Company. In the meantime, in case the Respondent's development of software is in breach of the agreement, such software should be deemed as intellectual property independently developed by the Respondent. Such being the case, the Respondent is only liable for reasonable compensation but not for returning the Software Copyright. Lastly, in case the Software Copyright is to be surrendered, the Joint Venture Company has been dissolved, so the Software Copyright should not be returned to the Joint Venture Company but should belong to the developer.

For the purposes of protecting the legitimate rights and interests of the Respondent, we hereby request the China International Economic and Trade Arbitration Commission to dismiss the claims of the Claimant.

To the China International Economic and Trade Arbitration Commission

RESPONDENT: Guangzhou Sea & Skytech  
Co., Ltd.

(Signature and/or Stamp)

This twentieth day of February two thousand  
and six (2006)

**Appendices:**

4. Four duplicates of this Statement of Defense
5. Five copies of Business License and Certificate of Legal Representative
6. Five copies of the evidence

## COOPERATION AGREEMENT (EXCERPT)

Party A: Guangzhou Sea & Skytech Co., Ltd.

Party B: US Hongtu International Investment Inc.

(1) Clause 5.3 of the Cooperation Agreement stipulates that: “The capital subscription and cooperation conditions for Party A are as follows: (a) Party A shall contribute as registered capital the assets listed in Appendix 2 hereto and the intellectual property listed in Appendix 3 hereto, with its contribution accounting for thirty-three point three percent (33.3%) of the total registered capital. Both parties hereto agree that the assets listed in Appendix 2 shall be no less than two million (2,000,000.00) Chinese *RMB*. Where said assets are verified to be less than two million (2,000,000.00) Chinese *RMB*, the proportion of shares held by both parties shall be adjusted accordingly. Both parties hereto agree that for the purposes of cooperation, Party A shall contribute to the Company all intellectual property, goodwill, customer lists, name of company, and materials concerning business operations, which are all listed in Appendix 3; that Party A shall ensure that the persons listed in Appendix 1 sign a three-year employment agreement as principal staff with the Company, and that said persons shall fully perform all warranties, representations, and obligations as set forth in such employment agreement.”

(2) Clause 5.5(a) of the Cooperation Agreement stipulates that: Party A (namely, the Respondent) shall fulfill any and all cooperation conditions under Clause 5.3 hereto for the benefit of the Company within one month upon issuing of the business license, including but not limited to transferring any and all customer lists and materials concerning business operations to the Company, completing all formalities of intellectual property changes as required by the law (including but not limited to transferring to the Company the assets listed in Appendix 2 hereto and the intellectual property, goodwill, customer lists, name of company, etc. all listed in Appendix 3 hereto...”

(3) Clause 9.1 of the Cooperation Agreement stipulates that: “Neither Party A nor any of its shareholders, employees, or related companies in the past, at present or in the future shall establish (a) any joint venture company or companies with other individuals or entities within the territory of China or engage in similar arrangement, or engage in any activities or take any actions that are and/or will be in competition with any current and future business operations of the Company (namely, the Joint Venture Company).”

(4) Clause 9.1 of the Cooperation Agreement stipulates that:

“Non-compete (a) No senior employee shall, within the territory of China, provide services or make profits by any means for other individuals, companies, institutions, entities or organizations or participate in any activities arranged by such individuals, companies, institutions, entities or organizations that directly or indirectly impair the interests or compete with the business operations of the Company.”

(5) Clause 12.2 of the Cooperation Agreement stipulates that: “The Company shall, in accordance with the principles set forth herein, include a non-compete clause in the employment agreement with its employees, providing that no employee who engages in software development or marketing or has access to the technology and business secrets of the Company shall be employed by or provide services to any companies, entities, institutions, or organizations which produce and develop similar products or conduct similar business operations and thus directly or indirectly compete with the Company, or develop and produce of his or her or its own accord similar products which directly or indirectly conflict or compete with those of the Company.”

(6) Clause 12.3 of the Cooperation Agreement stipulates that: “The copyright of any software or other software products that any employees develop in the course of work done for the Company shall belong to the

Company. No employee shall appropriate any such rights and interests by any means upon or after termination of the employment agreement with the Company.”

(7) Clause 19.1 of the Cooperation Agreement stipulates that: “The breaching party shall be liable for compensation to the other party for any and all actual losses and such losses as are foreseeable upon execution of this Agreement arising from the breach of agreement, including but not limited to lost profits, interest and auditing, accounting and attorney fees that are paid or lost arising from the breach of agreement.”

(8) Clause 23.2 of the Cooperation Agreement stipulates that: “Any dispute arising out of or relating to this Agreement shall be submitted to the Beijing-based China International Economic and Trade Arbitration Commission (hereinafter referred to as ‘Arbitration Commission’) for arbitration. Such arbitration shall be conducted in accordance with the then prevailing arbitration rules of the Arbitration Commission. The arbitration award shall be final and binding on both Parties hereto, who are committed to performing such award. Any court with jurisdiction may execute such award. All arbitration costs including those arising from the execution of the arbitration award shall be borne by the losing party.”

(9) Appendix 1 to the Cooperation Agreement stipulates that: “The persons specified above shall enter into an employment agreement with the Company and undertake as follows: no person shall unilaterally terminate the employment relations with the Company within three years; no person shall engage in any work that competes with the business operations of the Company within one after the termination of his or her agreemental relations with the Company; no person shall be employed by or provide services to any entities or individuals that directly or indirectly compete with the Company. Where any of the persons specified above breaches this clause, which leads to a material breach of Party A under this Agreement, any and all losses incurred by Party B shall be borne by Party A in accordance with Clause 19 herein.”

### Appendix 1 List of Principal Staff

Title	Name	Gender	Age	Annual Salary	Specialty/ Academic Degree
General Manager	XIN Xiaogang	Male			
General Engineer	WANG Hong	Male			
Senior Management Staff	MA Zhongwei ( Deputy General Manager )	Male			
	WANG Ming ( Deputy General Manager )	Male			
	LIU Chongsong (Manager of Management Dept.)	Male			

	MA Biao (Manager of Accounting Dept.)	Male			

The persons specified above shall enter into an employment agreement with the Company and undertake as follows: no person shall unilaterally terminate the employment relations with the Company within three years; no person shall engage in any work that competes with the business operations of the Company within one year after the termination of his or her agreemental relations with the Company; no person shall be employed by or provide services to any entities or individuals that directly or indirectly compete with the Company. Where any of the persons specified above breaches this clause, which leads to a material breach of Party A under this Agreement, any and all losses incurred by Party B shall be borne by Party A as per Clause 19 herein.

## Appendix 2 Asset List

The assets contributed by Party A include:

Cash: seven hundred and eighty-eight thousand seven hundred and seventy-four point five eight (788,774.58) Chinese RMB

Amount Payable: nine hundred and eighty-five thousand nine hundred and eleven point four two (985,911.42) Chinese *RMB*

Fixed Assets: worth two hundred and twenty-five thousand three hundred and fourteen point zero zero (225,314.00) Chinese *RMB*

The fixed asset list and price estimation of each item are subject to further verification and confirmation of both parties hereto.

### **Appendix 3 Specific Conditions for Cooperation**

(1) Software Products

MIS: data management software

(2) Goodwill

(3) Customer Lists

The Public Security Bureau of Wenshui, Guangdong

Guangdong Patrol

Northern Airlines of Guangdong

Hehai University of Guangdong

111 Research Institute under the State Ministry of Security

(4) Name of Company

“海天” (Chinese characters) and “Sea & Skytech”

(5) Materials Concerning Business Operations

Party A shall transfer the intangible assets specified above to the Joint Venture Company within one month after the establishment of the Company.

Party A: Guangzhou Sea & Skytech Co., Ltd. (Stamp)

Legal Representative: WU Tianzhong (Signature)

Party B: US Hongtu International Investment Inc. (Stamp)

Legal Representative: MA Ketong (Signature)

This Agreement is executed in Beijing on this thirty-first day of January  
two thousand (2000)

**INDUSTRIAL & COMMERCIAL REGISTRATION OF  
JOINT VENTURE COMPANY**

No. 860712

**Enterprise Name (Chinese):** 广州东华海天技术有限公司 (Chinese Characters;

Translation: Guangzhou Donghua Sea &  
Skytech Co., Ltd.)

(Foreign Language):

**Domicile:**

**Type of Corporation:** Cooperative joint venture (US-funded)

**Business Scope:** developing and producing computer hardware and software, system integration products, and comprehensive after-sale services; selling self-produced products

**Registered Capital:** Six million (6,000,000.00) Chinese RMB (Paid-up Capital: zero million (0,000,000.00) Chinese RMB

**Board Chairman:** FENG Jianghong

**Vice Board Chairman:** WANG Xinmei

**General Manager:** XIN Xiaogang

**Deputy General Manager:** WANG Wanghong, MA Zhongwei, WANG

Ming

**Branches and/or Subsidiaries**

**Business Operation Term:** from March 10. 2000 to March 9, 2015

**Validity Term of Original License:** from March 10. 2000 to March 9, 2001

Administration of For and on Behalf of State Industrial and Commercial

People's Republic of China

\_\_\_\_\_  
Chairman (Signature and/or Stamp)

Date: This tenth day of March two thousand (2000)

The term of validity of this duplicate expires on the tenth day of March two thousand and one (2001)

**BUSINESS OPERATION LICENSE OF  
BUSINESS CORPORATION**

(Duplicate)

Duplicate No.: 5201910002003070200000

Registration No.: 5201912300403

Name of Corporation: Guangzhou Sea & Skytech  
Software Co., Ltd.

Domicile: Rm 160, Bldg 3, Software Venture Center,  
Software Park, New and High-Tech Development  
Zone, Guangzhou

Legal Representative: WANG Xinmei

**Explanations**

1. The Business Operation License of Business Corporation is the certificate for an enterprise to obtain its legal person qualification and legal operation.
2. The Business Operation License of Business Corporation is issued in an original copy and a duplicate copy, with both copies having the same legal force. The original copy of the business operation license shall be placed at an eye-catching position in the registered domicile. The Corporate body may apply with the registrar for duplicates where necessary.
3. The Business Operation License of Business Corporation shall not be fabricated, altered, leased, lent or transferred. No other body or individual than the registrar shall be allowed to detain,

Registered Capital: two million (2,000,000) Chinese RMB

Type of Corporation: Limited liability company

Scope of Business: Development, sale and technology services of computer software and intelligence systems; sale, technology services, computer system integration, and net wiring of computers and computer parts and accessories; sale of communications products (excluding ground satellite receiving facilities), electronic products, stationery and facilities for cultural and office use, industrial automation devices, and mechatronic devices; development and promotion of

seize or revoke it.

4. The business corporation shall confine its business operations to the approved and registered scope.
5. The alternation registration shall be applied with the original registrar for a change of the registered items.
6. Annual inspection of the business corporation is conducted by the registrar between January 1 and April 30 each year.
7. Both the original and duplicate copies of the business license shall be returned for cancellation. The business license is automatically invalid upon revoke by the registrar.

Statement of Annual Inspection

bioengineering; economic management consulting and image design for enterprises; technology training and consulting services. Registrar: Signature and/or Stamp (Industrial and Commercial Administration of Guangzhou)

This second day of July two thousand and three (2003)

Business Operation Term: from July 2, 2003 to July 1, 2013

Date of Establishment: July 2, 2003

**ARBITRATION AWARD NO. 0029 (EXCERPT)**

...

Paragraph 2 on Page 20:

This Tribunal notes that Clause 9.1 of the relevant Agreement specifies that ... It can be concluded that Clause 9.1 of the Agreement is rather general in specifying the non-compete scope against the Respondent, including “establish a joint venture company or companies or engage in similar arrangement, or engage in any activities or take any actions that are and/or will be in competition with any current and future business operations of the Company.” Then the question of what “any current and future business operations” of the Joint Venture Company refers to is crucial to the issue whether the Respondent has breached this clause. Clause 4.2 of the relevant Agreement specified that the business scope of the Joint Venture Company includes ...; and the business license ... In accordance with these provisions, this Tribunal decides that the business scope of the Joint Venture Company includes development, production, sale and after-sale services of computer software and hardware and system integration products. Under Clause 9.1 of the Agreement, the Respondent shall not compete with the Joint Venture Company within this scope.

This Tribunal also notes that the business scope specified in the business license issued to the Respondent by the Industrial and Commercial Administration of Guangzhou on August 7, 2003 includes ..., which means that prior to the conclusion of the relevant agreement with the Claimant, the Respondent had already engaged in such business operations as sale, reparation and maintenance of computer hardware, and development and sale of computer software which overlap with those of the Joint Venture Company. The business scope of the Respondent remained unchanged after the execution of the Agreement, including the business operations which overlap with those of the Joint Venture Company as before. In accordance with the “List of the Third Batch of Approved Registered Software Products of Guangdong” which was publicized on the website of the Department of Information Industry of Guangdong, the Respondent reported YUYU software products for examination and obtained approval for them in 2002 and for WW in 2003. Furthermore on July 2, 2003, the Respondent established Guangzhou Sea & Skytech Software Co., Ltd. whose business scope includes ... The Respondent has never denied its continuing engagement in development, production and sale of computer software and hardware and establishment of said software company after establishment of the Joint Venture Company, but claims that it is not a direct competitor of the Joint

Venture Company in this regard. This Tribunal decides that the “non-compete clause” in the relevant agreement, to wit Clause 9.1, is an agreement based on consultation by both parties thereto and is thus legal, valid, and binding on both parties. The Respondent, as a company whose business scope includes development and sale of computer software and hardware, cooperated with the Claimant to establish a joint venture company; and it undertakes that it will not “compete in any current and future business operations” with the Joint Venture Company. Therefore, after the establishment of the Joint Venture Company, the Respondent should have performed its obligations specified in the Agreement immediately and refrained from engaging in such activities as development, production, sale and after-sale services of computer software and hardware and system integration products which all overlap with the business scope of the Joint Venture Company; it should never have established Guangzhou Sea & Skytech Software Co., Ltd. whose business scope overlaps with that of the Joint Venture Company. In consideration of the above reasons, this Board decides that the acts of the Respondent specified above have breached the terms of Clause 9.1 of the relevant agreement.

This Tribunal contends that in accordance with *the Contract Law of the People’s Republic of China ...*, the Respondent failed to perform the

non-compete obligations under Clause 9.1 of the Agreement and shall be liable for breach accordingly. This Tribunal accordingly decides that the Respondent shall continue to perform its non-compete obligations and refrain from engaging in any activities that “compete with any current and future business operations” of the Joint Venture Company.

This Tribunal also finds that it is for the purposes of protecting the rights and interests of the Joint Venture Company that Clause 9.1 of the relevant agreement specifies that the Respondent undertakes that it will not “compete in any current and future business operations” with the Joint Venture Company. In accordance with *the Contract Law of the People’s Republic of China* ..., the Respondent shall indemnify the Joint Venture Company rather than the Claimant for its breach of said clause. The Claimant also admits that the direct beneficiary of this clause is the Joint Venture Company but claims that it is an indirect beneficiary and is entitled to distribution profits from the Joint Venture Company payable to it under the relevant terms of the Agreement and the Articles of Association of the Joint Venture Company. This Tribunal decides that the Respondent shall indemnify the Joint Venture Company for the profits obtained from the corresponding business operations which are in parallel competition with the Joint Venture Company after the execution of the relevant agreement. In accordance with *the Law on Sino-Foreign*

*Cooperative Joint Venture Enterprises of the People's Republic of China* ..., the Claimant in this case has not applied for termination of the Agreement, and both parties thereto have never commenced consultation on termination of the Joint Venture Company. Moreover, upon termination of the Joint Venture Company, the cooperative parties shall not dispose of the property in the name of the Joint Venture Company until the credits and debts are settled.

Last paragraph on Page 24

This Tribunal decides that the Respondent has breached the terms of the “non-compete clause” in the relevant agreement and shall cease its breaching conduct and refrain from engaging in business operations which “compete with any current and future business operations” of the Joint Venture Company, namely, refrain from engaging in such activities as development, production, sale and after-sale services of computer software and hardware and system integration products which overlap with the business scope of the Joint Venture Company;

## **ARBITRATION AWARD NO. 0170 (EXCERPT)**

### **I. Fact Summary**

**(Omitted)**

### **II. Decision**

This Tribunal decides that it is an undisputable fact that the Joint Venture Company runs at a heavy loss, and accordingly the objective conditions for continuing business operations are lacking; even if it continues its business operations, the goals of the cooperative joint venture would be difficult to achieve. Furthermore, the cooperative parties have subjectively developed rancor against each other, and the conflicts between the two can hardly be settled, so the common ground for cooperation does not exist anymore. Therefore, given that the agreemental and statutory conditions have been fulfilled, the Joint Venture Company should be dissolved. However, the reasons for losses of the Joint Venture Company and the persons to be blamed are not the statutory preconditions for dissolving the Joint Venture Company.

### **III. Award**

This Tribunal hereby enters into the award as follows:

1. The Cooperation Agreement entered into by and between the Claimant and the Respondent shall be terminated; the Joint Venture Company shall be dissolved;
2. The costs of arbitration shall be borne by the Respondent.

Chief Arbitrator (Signature and/or  
Stamp)

Arbitrator (Signature and/or Stamp)

Arbitrator (Signature and/or Stamp)

This twenty-ninth day of April two thousand and five  
(2005) in Beijing

**APPLICATION FOR INQUIRY CONCERNING  
COMPUTER SOFTWARE COPYRIGHT**

Inquiry by Company Inquiry by Individual

Application Date:

September 22, 2006

This Column  should be completed by Applicant.	Name : LU	Type of	Certificate No.
	Kaiyun	Certificate: ID	520502197403282019
	Company for contact:		Post Code:
	US Hongtu International Investment Inc.		
	Post Add.:		
	3 Happy Ave, Seattle, US		
Tel. (Area Code)			
001-200-706-9444			
Purposes of Inquiry:			
To collect evidence for arbitration and litigation			

	<p>Content of Inquiry ( Please specify the registration number, name, and any known or copied information of the software. )</p> <p>To inquire about the company with the name Guangzhou Sea &amp; Skytech and the name and registration number of the software registered by such company.</p> <p>Between September 1, 2001 and August 31, 2006 (Time Range of Inquiry)</p>	
<p>This Column should be completed by</p>	<p>Mode of Inquiry: Paper capacitor, computer search, optical disk search</p> <p>Duration of Inquiry: 60 min.</p> <p>Signature and/or Stamp of Examiner: WU Yue</p> <p>September 22, 2006</p>	<p>Cost :50 <i>Chinese RMB</i></p>
<p>Examiner.</p>	<p>Explanations of Inquiry Results:</p> <p>Photocopying, printing machine, inquiry for reference</p>	

	<p>Upon computer search, 37 entries of copyright owner with the name “Guangzhou Sea &amp; Skytech” are found in the registration database for computer software copyright dated between September 1, 2001 and September 22, 2006 in this Center.</p>
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**APPLICATION FOR INQUIRY CONCERNING  
COMPUTER SOFTWARE COPYRIGHT**

Inquiry by Company Inquiry by Individual

Application Date:

September 22, 2006

This Column  should be completed by Applicant.	Name : LU	Type of	Certificate No.
	Kaiyun	Certificate: ID	520502197403282019
	Company for contact:		Post Code:
	Guangzhou Donghua Sea & Skytech Co., Ltd.		
	Post Add.:		
Rm 505, New Century Building, Hunan Rd, Guangzhou			
Tel. (Area Code)			
020—72249595			
Purposes of Inquiry:			
To find the status of software copyright of the company			

	<p>Content of Inquiry ( Please specify the registration number, name, and any known or copied information of the software. )</p> <p>To obtain information concerning Guangzhou Donghua Sea &amp; Skytech Co., Ltd. as copyright owner</p> <p>Between 2000 and 2006 (Time Range of Inquiry)</p>	
<p>This Column should be completed by</p>	<p>Mode of Inquiry: Paper capacitor, computer search, optical disk search</p> <p>Duration of Inquiry: 60 min.</p> <p>Signature and/or Stamp of Examiner: WU Yue</p> <p>September 8, 2006</p>	<p>Cost : 125 <i>Chinese RMB</i></p>
<p>Examiner.</p>	<p>Explanations of Inquiry Results:</p> <p>Photocopying, printing machine, inquiry</p>	

	<p>Upon computer search, no entry of copyright registration by “Guangzhou Donghua Sea &amp; Skytech” is found in the registration database for computer software copyright dated between January 1, 2000 and September 22, 2006 in this Center.</p>
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## **PROSPECTUS (EXCERPT)**

### **Important Information**

*The following is merely an excerpt from the whole document, and the reader should also refer to the original when reading this document. The Investor should read the whole document instead of solely relying on the following information and should pay special attention to Part II herein titled “Risk Factors”.*

### **Introduction**

The Group is dedicated to developing and selling software products and providing software-related services and system integration to meet the special needs of China and of governmental agencies across the country.

The Group provides the following products to governmental agencies, institutions, and export enterprises in Guangdong, China.

Export-tax software which, as a combination of a front-end product series used by taxation bureaus and a back-end product series used by export enterprises, helps generate and file documents concerning export taxes.

- E-government software which helps governmental agencies automatically establish a virtual and real-time system at the municipal and provincial levels to facilitate citizens' access to some governmental services;
- Information integration software which provides existing customers with a large amount of information and ensures the delivery, integration and synchronization of information in a complex, multi-platform, and multi-user computer environment;
- Individualized services for existing customers, including software updating, system integration, training, customer support, problem solution, and error repair.

## **Part I Group Profile**

### **1. Introduction**

The Group is dedicated to developing and selling software products and providing software-related services and system integration which are tailored to the special needs of certain local and state governmental agencies in China.

Ginosoft Technology Plc is a UK-based holding company of Imfotech, which in turn is a Singapore-based holding company of two subsidiaries, namely, Guangzhou Sea & Skytech and Guangzhou Software. These two subsidiaries were both registered and have operated in Guangdong, mainly providing certain governmental agencies, institutions and export enterprises in Guangdong and Hainan with the following products and services:

- ✧ Export-tax software which can complete and computerize export-tax files, including a set of logistic products for tax administration and a set of front-end products for export enterprises;
- ✧ Software which can automate programs of governmental agencies at the municipal and provincial levels to create a virtual but real-time environment for citizens to access certain governmental services;
- ✧ System integration software which is designed to provide existing

customers with an opportunity to manage a large amount of information and assist them to ensure the distribution, combination and synchronization of such information in a complex, multi-platform, and multi-seller information technology environment; and

- ✧ Services tailored to existing customers, including software updating, system integration, training, customer support, problem solution, and program error repair.

#### **4. Products & Services**

Sea & Skytech software products are targeted at three areas: (i) export taxes; (ii) e-government; and (iii) information and system integration.

#### **10. Intellectual Property Rights**

The intellectual property rights of the Group are under the protection of *The Intellectual Property Law of China*. The owner is entitled to publish, develop and use such property (including duplication, amendment and translation), to license others to use the property for profit, and to assign it.

The Group protects the intellectual property rights of its export-tax

software by using the “activation number” system. Each item of export-tax software is given a unique registration number which matches the one given to customers at the time of purchase.

The Group further protects the intellectual property rights of its software by using USB security tokens.

## **11. Corporate Structure**

The corporate structure of the Group is outlined below:

Guangzhou Sea & Skytech and Guangzhou Software were established in December 1998 and July 2003 respectively. The two companies are both owned by Infotech and carry out joint business operations. Infotech was established in October 2004 in Singapore and acquired Sea & Skytech in 2005. Ginosoft was established in December 2005 in the UK and acquired Infotech by the share-swap method in January 2006 as part of its preparation for listing.

In October 2003, Guangzhou Software acquired 5% of Guangdong CA, which was then a joint venture specializing in electronic identity certificates.

**PAST FINANCIAL INFORMATION ABOUT SEA & SKYTECH**  
**(Guangzhou Sea & Skytech Co., Ltd. and Guangzhou Sea & Skytech Software**

**Guangzhou Sea & Skytech Co., Ltd. & US Hongtu International Investment Inc.**

**Consolidated Profit & Loss Account**

	Nine-month period ending Sep. 30, 2005 (audited)	Nine-month period ending Sep. 30, 2004 (audited)	Fiscal year ending Dec. 31, 2004 (audited)	Fiscal year ending Dec. 31, 2003 (audited)	Remarks	USD	USD	USD
<b>Turnover</b>	4,271,108	3,159,607	4,979,029	1,714,397	2	4,271,108		
<b>Sales Costs</b>	(1,159,417)	(1,112,386)	(1,458,877)	(427,392)	1)	(1,159,417)		

<b>Gross Profits</b>	3,111,691	2,049,221	3,520,152	1,287,005	1	3,111,691
<b>Other Income</b>	443,119	262,098	458,692	195,286	4	443,119
<b>R&amp;D Costs</b>	(289,414)	(404,119)	(483,460)	(409,288)	)	(289,414)
<b>Sales &amp;</b>	(290,677)	(217,344)	(315,378)	(299,682)	8)	(290,677)
<b>Distribution</b>						
<b>Costs</b>						
<b>Admin. Fees</b>	(452,444)	(375,120)	(434,866)	(467,891)	8)	(452,444)

Others	(136)	(200)	(3,226)	(8,897)	8)	(136)
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### Expenditure

Operation	2,522,139	1,312,536	2,741,914	296,533	2	2,522,139
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### Profits

Accounting	(16,241)	(13,388)	(18,981)	(5,949)	–	(16,241)
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### Fees

Financial	17,898	8,345	10,687	4,064		17,898
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### Income

Losses	–	(10,431)	(80,929)	(61,728)	)	–
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attributable to

Affiliate

Company

Profits from	–	–	104,384	–	–	–
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sale of

Subsidiaries

Investment	–	(12,107)	(88,116)	98,780	1	–
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(Losses) /

**Profits**

<b>Pre-tax Profits</b>	2,523,796	1,284,955	2,668,959	331,700	0	2,523,796
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<b>Income Tax</b>	–	–	(4,477)	–	–	–
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<b>Net Profits</b>	2,523,796	1,284,955	2,664,482	331,700	0	2,523,796
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<b>Minority</b>	–	(32,049)	(32,049)	(27,911)	–	–
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**Interests**

<b>Shareholders'</b>	2,523,796	1,252,906	2,632,433	303,789	0	2,523,796
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**Net Profits**

## NOTES ON FINANCIAL STATEMENTS

### 1. Company and Its Operations / General Data

- ※ Guangzhou Sea & Skytech Co., Ltd. was duly registered on December 14, 1998 in the People's Republic of China ("China"), specializing in developing and selling computer software, computers and peripheral devices, accessories relating to communications products, electronic products, and other electric apparatuses.
- ※ Guangzhou Sea & Skytech Co., Ltd. became a subsidiary of Imfotech Holdings Pte on July 31, 2004; and the latter became a wholly-owned subsidiary of Ginosoft Technology Plc on January 20, 2006.
- ※ Guangzhou Sea & Skytech Software Co., Ltd. was established in the People's Republic of China on July 2, 2004, specializing in development, sale, services of computer software and science and technology.
- ※ Prior to July 31, 2004, Guangzhou Sea & Skytech Software Co., Ltd. had been a subsidiary of Guangzhou Sea & Skytech Co., Ltd. which held 92% shares of the former. On July 31, 2004, Guangzhou Sea & Skytech Co., Ltd. was acquired by Guangzhou Sky Investment Information Co., Ltd. In January 2005, 100% of issued stock capital of Guangzhou Sea & Skytech Software Co., Ltd. was acquired by Imfotech Holdings Pte. Ltd.
- ※ The registered address of Guangzhou Sea & Skytech Co., Ltd. and Guangzhou Sea & Skytech Software Co., Ltd. is 3/F, 50 Building in the Guangdong Software Park, 168 Longpan Rd (M), Guangzhou, People's Republic of China.

## **2. Standards for Financial Information Compilation**

- ※ The financial information herein was compiled by the directors of Ginosoft Technology Plc under the International Financial Reporting Standards (“IFRS”).
- ※ The financial information herein includes that of Guangzhou Sea & Skytech Co., Ltd. and Guangzhou Sea & Skytech Software Co., Ltd. (merged entity), which were both wholly-owned subsidiaries of Infotech Holdings Ptc on September 30, 2005. During the period when Guangzhou Sea & Skytech Co., Ltd. held 90% of the shares of Guangzhou Sea & Skytech Software Co. Ltd., the accounts were included in the consolidated accounts under the Group.
- ※ Afterwards, the accounts of these two subsidiaries were combined but not consolidated. All information relating to transactions and balances between the said subsidiaries was deleted at the time of compiling the financial information of the merged entity. Said financial information does not consolidate the business performance of the two companies or reflect the legal ownership and structure of Infotech (Group) in the time frame specified in said financial information.
- ※ The accounts of the merged entity are stated in RMB. Its financial statements are compiled under the accounting principles generally accepted in the People’s Republic of China. The financial information herein is compiled based on the legal records, including the date of adjustment and reclassification for the purposes of meeting the requirements of IFRS and making a truthful representation of the company.
- ※ The financial information herein is compiled in accordance with cost practices, excluding the information relating to the following

accounting principles.

- ✧ The financial information herein has been prepared as preparation of Ginosoft Technology Plc for listing.
- ✧ The financial information herein should not be deemed to be legal accounts. It includes comparative data before audit up to September 30, 2004.

## 2. Investment

	Period ending Sep. 30, 2005 Audited USD	Period ending Dec. 31, 2004 Audited USD	Period ending Dec. 31, 2003 Audited USD	Period ending Dec. 31, 2002 Audited USD
Affiliated				
Company :	242,131	242,131	242,131	242,131
Investment	(161,202)	(161,202)	(161,202)	(99,474)
Portion of Results after Acquisition	<u>(80,929)</u>	<u>(80,929)</u>	<u>--</u>	<u>--</u>
Loss Provision	--	--	80929	142,657
	<u>181,598</u>	<u>181,598</u>	<u>181,598</u>	<u>--</u>
Investment Costs in Other Share Capital	<u><u>181,598</u></u>	<u><u>181,598</u></u>	<u><u>262,527</u></u>	<u><u>142,657</u></u>

The following are details of the Affiliated Company:

Name:

Guangzhou	Registration /	Principal Business	Actual shares
Donghua	Operations	Developing and selling	held by
Consultants Co.,	People's	hardware and software	Group
Ltd.	Republic of	and system integration	33%
	China	services	

The Affiliated Company went into liquidation in 2005, and loss provision has been included in the investment by the Group.

The following is a summary of the financial information of the merged affiliated company.

Period ending Sep. 30    Period ending Dec. 31    Period ending Dec. 31

	2005	2004	2003	02
	Audited	Audited	Audited	
	USD	USD	USD	
Total Assets	–	404,244	778,867	22
Total Debt	–	248+974	636,080	62
Net Assets	–	155,270	242,767	70
Allocation after Merger				
Net Assets of Affiliated Company	–	51,757	80,929	57
Income	–	461,733	626,418	98
Losses within Time Frame	–	(87,516)	(185,184)	58)
Allocation of Losses within Time Frame to Affiliated Company	–	–	(61,728)	86)

## 21. Share Capital

	Period ending Sep. 30 2005 Audited USD	Period ending Dec. 31 2004 Audited USD	Period ending Dec. 31 2003 Audited USD	
Registered Capital :				
Guangzhou Sea & Skytech Co., Ltd.	1,210,654	1,210,654	1,210,654	27
Guangzhou Sea & Skytech Software Co., Ltd.	242,131	242,131	-	-
	1,452,785	1,452,785	1,210,654	27

Increases of registered share capital of Guangzhou Sea & Skytech Co., Ltd

- Investment of 242,131 USD on November 8, 2002;
- Investment of 606,327 USD on August 2, 2003;

The registered capital of Guangzhou Sea & Skytech Software Co., Ltd since its establishment has been two hundred and forty-two thousand one hundred and thirty-one (242,131) USD

## **PART VI**

### **11. Litigation**

(a) Donghua Technology Co., Ltd ('Donghua') was registered as a joint venture company in 2000 under the Cooperative Joint Venture Agreement ("CJVA") entered into between Guangzhou Sea & Skytech and Hongtu Co., Ltd. ("Hongtu "). Hongtu once filed a claim against Guangzhou Sea & Skytech. In February 2005, the arbitration tribunal found that Guangzhou Sea & Skytech breached the "non-compete clause" under the CJVA in its software development operations. However in April 2005, given the actions of Guangzhou Sea & Skytech, the court ordered that the Joint Venture Company with Donghua be liquidated. The directors maintain that even if any party were to file a claim against Guangzhou Sea & Skytech for the profits from the software development operations during the period in dispute, such a claim would be small in amount. In other words, Guangzhou Sea & Skytech will resist relevant claims after seeking legal advice.

(b) According to the above disclosure, no company under the Group has been involved in or aware of any pending governmental, legal or arbitral actions or threats that will exert a material impact on its financial status or profit-making capability in the following twelve months.

## **EXPLANATION OF PROSPECTUS BY UK ACCOUNTING FIRM**

To: The Directors  
Ginosoft Technology Plc  
3 Hyde Park Row, Leeds LS1

February 2, 2007

Dear Madam :

Ginosoft Technology Plc

As you know, we act as the reporting accountant for your company in relation to its listing on the London Stock Exchange AIM.

You requested us to give an explanation of the income which is disclosed on Page 56 in the Prospectus for your company's listing on the London Stock Exchange AIM ("Prospectus").

We are ready to confirm that the income disclosed on Page 56 in the Prospectus is from two independent companies, namely, Guangzhou Sea & Skytech Co., Ltd. and Guangzhou Sea & Skytech Software Co., Ltd., and such disclosure is compiled under the International Financial Reporting Standards (IFRS).

Please note that as to the combined income of the two companies or that of either company, there may be a difference between the figure in the financial statement compiled under the IFRS and that under the Chinese accounting standards.

We suggest that you may rely on the financial statement issued by the Chinese accounting firm under the Chinese accounting standards.

Do not hesitate to let us know if you need further help.

Yours Sincerely,

Mark Hamilton

## **DEFINITION OF MANAGEMENT INFORMATION SYSTEM**

October 25, 2007

To Hongtu International Investment Inc.

At your request, we define the term “management information system” as follows on the next page. Generally speaking, a management information system is a software system which provides information for organization and management. Recent years have witnessed its application to a wider scope, including software systems which can provide information for management, people who support management, and related services and formalities.

Best regards!

Yours Sincerely,

WU Quanneng

(Signature and/or Stamp)

PhD in Computer Science

Associate professor with Department of Electronic Computing, Tsinghua University

Director of Laboratory of Software Development and Management, Tsinghua University

Part-time professor with Department of Electronic Computing, University of Hong Kong

## **Commonly Accepted Definition of MIS**

MIS (Management Information System) is a computer-based system that provides information to facilitate organization and management and is able to support all kinds of management activities. Some examples of MIS include accounting management information systems, financial marketing management systems, manufacturing management information systems, marketing management information systems, human resources management information systems, project management systems, tax management systems, information integration systems, decision support systems, and expert systems. Those functions of e-government systems which are related to management activities can also be considered as part of MIS.

MIS should include software that helps in decision making, a database, and corresponding hardware resources.

Recent years have witnessed the application of MIS to a wider scope.

## **Expanded Definition of MIS**

MIS includes software systems which can provide information to facilitate management, people who support management, and related services and formalities.

**CURRICULA FOR VOCATIONAL COLLEGES AND  
PRACTICE-BASED TEXTBOOK SERIES IN NEW CENTURY  
---MANAGEMENT INFORMATION SYSTEMS (MIS)**

**Management Information System (MIS)**

**Editors in Chief: XIE Shengqing & LIU Yonghua**

**Associate Editors: XU Xiuqing & WANG Zhaohong**

**Tsinghua University Press**

**Beijing**

## **Classification of MIS**

### **1. Classification Based on Management Hierarchy**

Based on the management hierarchy, information systems may be classified into strategy-making systems, management systems, knowledge systems and operating systems (implementation systems), etc.

#### **1) Transaction Processing Systems at Operational Level**

A Transaction Processing System (TPS), also named Electronic Data Processing System (EDPS), is targeted at the bottom-level management of enterprises and process transaction information relating to the regular operations of enterprises. It is the fundamental form of an information system, featuring highly-structured problem solutions, uniformity of functions, and limited scope of design. Ticket-booking systems, accounting cost verification systems, inventory statistics systems and salary payment systems are a few examples of such systems. It provides real-time information relating to a business, namely, an immediate reflection of business operations.

#### **2) KWS & OAS at Knowledge Level**

A Knowledge Working System (KWS) is a highly specialized information system which assists professionals to develop new products for a business, for instance, CAD workshop, investment systems, etc. It processes the

internal and external data of businesses by using expertise.

An OAS assists administrative staff of a business to manage information flows. By applying advanced technology, it is a human-machine information system which materializes part of office work into various devices which, together with office staff, complete office work. Such systems effectively process, transmit, and manage office information, for example, word processing systems, video conference systems, electronic mail systems, etc.

### **3) MIS at Management Level**

MIS at Management Level is a product based on TPS. It is designed for comprehensive and integrated management of various business activities. In MIS, a centralized and unified database is indispensable. All information is stored in such database, which ensures consistency of shared information. MIS often analyzes data and assists decision making by mathematical models, for example, decision-making models for investment in resource consumption, models for production adjustment, models for manufacturing resource planning MRP-II, etc.

### **4) DSS & ESS at Strategy-Making Level**

A Decision Support System (DSS) is higher than MIS in the hierarchy. It

supports intermediate and senior management staff to make effective decisions to solve specific problems. It solves semi-structuralized and non-structuralized problems by means of updated technology including databases, model bases, knowledge bases, etc. The best route for transportation, the best order of size, and the best production adjustment are some of such solutions.

An Executive Support System (ESS), equipped with computer and correspondence capabilities, is specially designed for the top management in a business. It assists the top management to solve non-structuralized problems of strategic significance arising from ever-changing circumstances on a macro scale. Such strategic decisions may include whether a new production line should be introduced; whether a certain market should be explored; whether advertising should be intensified; whether a cooperative or associate relationship should be established with another business.

(Source: XIE Shengqing & LIU Yonghua, May 2006, *Management Information System*. Beijing: Tsinghua University Press. P17)

**EXPLANATION OF MIS**  
**BY GUANGZHOU SEA & SKYTECH SOFTWARE CO LTD**

March 11, 2006

MIS in question refers to the software for management information systems. Designed to apply database technology to MIS 2.0 for Hotel Industry Security, it is a “hotel version” used by hotels.

The software products which Guangzhou Sea & Skytech Co., Ltd. should provide to the Cooperative Company as covered by the terms of the Cooperation Agreement are undoubtedly the MIS and management database software which have already been developed and applied to products at the time of the execution of Cooperation Agreement, rather than those which are being or will be developed and applied to products.

MIS 2.0 for Hotel Industry Security is the only software product that Guangzhou Sea & Skytech Co., Ltd. should provide as covered by the terms of the Cooperation Agreement. The “hotel version” of such software used by hotels refers to MIS which is covered by the terms of the Cooperation Agreement; while the software used by the public

security department part of the management database.

The above explanation is made by XI Baiqiang, general engineer with  
Guangzhou Sea & Skytech Co., Ltd.

## INTERVIEW TRANSCRIPT

Date: August 2, 2008

Place: Shangjia International, 11 Jiefang Rd, Beijing

Interviewers: KOU Hua & ZHANG Li, lawyers with Huakai Law Firm

Interviewee: MA Bing, former supervisor of Chinese legal affairs with the Department of Legal Affairs, US Hongtu International Investment Inc.

Q: Nice to meet you, MA Bing. We are here to interview you regarding the cooperative enterprise jointly set up by the US Hongtu International Investment Inc. and Guangzhou Sea & Skytech Co., Ltd.

A: Ok.

Q: Could you tell us about your position and duties in the cooperative enterprise?

A: In 2000, I was the General Manager with the Chinese Company (of US Hongtu International Investment Inc.), in charge of acquisitions.

Introduced by others, I reached Guangzhou Sea & Skytech Co., Ltd. to negotiate business operations, later execute the Agreement and start the new business. I left the Cooperative Company last month and now work with Shangjia Company.

Q: What caused you to seek cooperation with Guangzhou Sea & Skytech Co., Ltd.?

A: I found the Chinese side got development projects from the government and owned technology, but it got the idea of cooperation due to insufficient capital. The two sides could establish a cooperative company and develop software and computer hardware and software products together.

Q: Was YUYU part of the cooperation covered by the terms of the Cooperation Agreement?

A: Yes. YUYU system project which was developed by the company was taken as a fundamental condition for both parties to execute the Cooperation Agreement and establish the Cooperative Company. Without this project, the foreign party would not have established any cooperative company jointly with Guangzhou Sea & Skytech Co., Ltd.

Q: Do you know anything about the WW software product in dispute between the Cooperative Company and the Chinese party?

A: Yes.

Q: Are YUYU which was then covered by the terms of the Cooperation Agreement and WW in dispute now the same product?

A: Not exactly the same. WW is a new product updated on the basis of YUYU.

Q: That's all for today's interview. Thank you for your cooperation. Please read the transcript carefully and sign if there are no mistakes.

A: Ok.

I have read the above transcript, and it is consistent with what I said to the best of my knowledge.

MA Bing (Signature)

August 2, 2008

KOU Hua (Signature)

ZHANG Li (Signature)

## **AUTHORIZATION LETTER**

There is to certify that Ms. ZHANG Meili has duly obtained full authorization from the Company to complete industrial and commercial and tax registration for the cooperative enterprise jointly with Guangzhou Sea & Skytech Co., Ltd., and execute the relevant documents in the course of said registration on my behalf.

For and on behalf of

US Hongtu International Investment Inc.

Authorized Signature(s)

MA Ketong

This fifteenth day of February two thousand (2000)

**REPORT ON FORENSIC IDENTIFICATION OF COMPUTER  
SOFTWARE (EXCERPT)**

*Pingjianzi No. 22 of 2006*

**1. Applicant:** US Hongtu International Investment Inc.

**2. Date of Application:** February 15, 2006

**3. Application:** To compare and identify the possible identity of the source program of YUYU and that of WW.

**4. Scope & Subject Matter of Identification:** The scope and subject matter of the present identification both refer to the source programs of the two types of computer software: YUYU and WW upon application of US Hongtu International Investment Inc.

**5. Identification Method:** (Omitted)

**6. Identification Conclusion:** Upon comparison with YUYU, it is identified that WW only takes on a few new functions, for example, WW enables the form for export tax rebate to be printed on a printed

declaration form (in blanks), while the original software YUYU can only do this on a blank sheet. Such slight differences do not lead to substantive changes to the original software. Therefore, the new software is identical in nature with the “software” transferred to the Cooperative Company.

Moreover, according to the applicant, this software was developed on March 30, 2004, while the third subject came into being on July 2, 2003, which means that the size of its source program had reached 148,000 entries nine months before its development. Based on the consensus of the industry, the size of a certain source program corresponds with a certain level of development and certain human resources. Take X software that the Chinese party has registered as an example, its size is only 36,500 entries. The applicant specifies in its written statement that the development of the software in question and the system testing and trial running last one year respectively. The consensus of the industry leads to the conclusion that the development, testing, trial running of system software call for well-coded programs and sufficient time for implementation. Such parameters for assessing the level of software development are essential for examiners in their virtually conventionalized work. It takes a newly established and insufficiently-staffed software company no less than two years to develop

software whose size of source program is several times as 36,500 entries. That is to say, the technical structure, overall design, core source program, and relevant documents had already been completed before the establishment of the third subject. The copyright of the software in question came into initial existence in the Chinese company which is one of the shareholders.

## **7. Special Notes**

This identification was conducted for the purpose of providing a universally acceptable reference for the value of involved assets in the dispute concerning computer software copyright involving the applicant. This Laboratory has not done any research on the objectivity and feasibility of the whole report or any part thereof for other purposes than the one above specified, and therefore assumes no liability for any consequences thereof.

Issuing Date: February 15, 2006

Forensic Expert: (Signature)

Forensic Expert: (Signature)

Forensic Expert: (Signature)

Forensic Laboratory: Beijing Siyuan Laboratory for Forensic

Examination of Intellectual Property Rights

**Note:**

Identification of computer software products is conducted mainly by the method of reverse engineering to identify the relevance, identity and dissimilarity of software products as well as the core functions, characteristic algorithms and proprietary technology. It usually takes twenty to thirty days.

**REPORT ON FORENSIC IDENTIFICATION OF COMPUTER  
SOFTWARE (EXCERPT)**

*Pingjianzi No. 25 of 2006*

**1. Applicant:** Guangzhou Sea & Skytech Co., Ltd.

**2. Date of Application:** February 28, 2006

**3. Application:** To compare and identify the possible identity of the source program of YUYU and that of WW.

**4. Scope & Subject Matter of Identification:** The scope and subject matter of the present identification both refer to the source programs of the two types of computer software: YUYU and WW, upon application of Guangzhou Sea & Skytech Co., Ltd.

**5. Identification Method:** (Omitted)

**6. Identification Conclusion:** Upon identification, we hold that WW has added a number of new functions which lead to substantive changes to the original software. Therefore, the new software WW is substantively different in nature from YUYU.

Moreover, the consensus of the industry is that the size of source program should not be deemed as the only standard for the calculation of development time of different types of software, and specific analysis should be applied to the complexity of each type of individual software.

## **7. Special Notes**

This identification was conducted for the purpose of providing a universally acceptable reference for the value of involved assets in the dispute concerning computer software copyright involving the applicant.

This Laboratory has not done any research on the objectivity and feasibility of the whole report or any part thereof for other purposes than the one above specified, and therefore assumes no liability for any consequences thereof.

Issuing Date: February 28, 2006

Forensic Expert: (Signature)

Forensic Expert: (Signature)

Forensic Expert: (Signature)

Forensic Laboratory: Beijing Weilun Laboratory for Forensic  
Examination of Intellectual Property Rights

**Note:**

Identification of computer software products is conducted mainly by the method of reverse engineering to identify the relevance, identity and dissimilarity of software products as well as the core functions, characteristic algorithms and proprietary technology. It usually takes twenty to thirty days.

## DEPOSITION OF WITNESS

My name is WANG Zhou, male, thirty-eight years old. I am the manager of the Department of Software Development of Guangzhou Yinghua Software Company. Between October 2003 and December 2005, I worked as the head of the Department of Software Development of Guangzhou Sea & Skytech Software Co., Ltd. Shortly after I joined it, the company entered into an agreement with the domestic taxation authorities to jointly develop tax software. For the purposes of this project, the company set up a research & development team. The company appointed me to be the team leader and provided two million Chinese RMB as the fund for research and development. Due to our efforts, we finally developed the tax software WW and registered it. I cannot recall the exact time of registration, but it was around 2004 and 2005. Anyway the software had been registered before I left Guangzhou Sea & Skytech Software Company.

WANG Zhou

August 2, 2006