

11-25-1998

FORM PTO-1594

(Rev. 6-93)



IEET U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

*MRD 11/23/98*

100906633

*MRD 11/23/98*

To the Honorable Commissioner of Patents and Trademarks. Please record the attached original documents or copy thereof.

1. Name of conveying party(ies):

**Virage, Inc.**  
177 Bovet Road, Suite 520  
San Mateo, California 94402

- Individual(s)
- General Partnership
- Corporation
- Other
- Association
- Limited Partnership

Additional name(s) of conveying party(ies) attached?  
 Yes  No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Execution Date: Dated as of as of November 2, 1998

2. Name and address of receiving party(ies):

Name: Imperial Bank

Street Address: 226 Airport Parkway

City: San Jose State: CA ZIP 95110

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation
- Other California state-chartered bank

If assignee is not domiciled in the United States, a domestic representative designation is attached:  Yes  No  
(Designation must be a separate document from Assignment).

Additional name(s) & address(es) attached?  Yes  No

4. Application number(s) or registration number(s):

A. Trademark Application Serial Nos.:  
75/388,939, Videologger (application # pending) and  
Audiologger (application # pending)

B. Trademark Registration No.(s):  
1,939,845 and 2,019,651

Additional numbers attached?  Yes  No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Joni Gok  
Firm: Cooley Godward LLP  
Street Address: One Maritime Plaza, 20th Floor  
City: San Francisco State: CA ZIP 94111

6. Total number of applications and registration involved: 5

7. Total fee (37 CFR 3.41): \$ 140.00  
 Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number: Currently Not Applicable

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

*To the best of my knowledge and belief, the foregoing information is true and correct and attached hereto is a true and correct copy of the document described in Item 3 above.*

\_\_\_\_\_  
Joni Gok

11-13-98  
\_\_\_\_\_  
Date

11/24/1998 DNGUYEN 00000069 1939845 Total number of pages including cover sheet, attachments, and document: 10

01 FC:481 40.00 OP  
02 FC:482 100.00 OP

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

GUIDELINES FOR COMPLETING TRADEMARKS COVER SHEETS

# COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND SECURITY AGREEMENT

THIS COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND SECURITY AGREEMENT is made as of November 2, 1998 ("*Security Agreement*"), by and between VIRAGE, INC., a Delaware corporation ("*Debtor*"), and IMPERIAL BANK ("*Bank*").

## RECITALS

**A.** Bank has agreed to lend to Debtor certain funds (the "*Loans*"), and Debtor desires to borrow such funds from Bank pursuant to the terms of that certain Security and Loan Agreement dated of even date herewith (as the same may be modified, amended, supplemented, restated or superceded from time to time, the "*Loan Agreement*"). Terms not defined herein shall have the meanings ascribed to them in that certain General Security Agreement (Tangible and Intangible Personal Property) dated as of May 30, 1998 (as the same may be modified, amended, supplemented, restated or superceded from time to time, the "*General Security Agreement*"), executed by Debtor in favor of Bank.

**B.** In order to induce Bank to make the Loans, Debtor has agreed to assign certain intangible property to Bank for purposes of securing the obligations of Debtor to Bank.

NOW, THEREFORE, the parties hereto agree as follows:

**1. COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND GRANT OF SECURITY INTEREST.** As collateral security for the prompt and complete payment and performance of all of Debtor's present or future indebtedness, obligations and liabilities to Bank, including, without limitation, such indebtedness, obligations and liabilities under the Loan Agreement and the other documents executed in connection therewith (as the same may be modified, amended, supplemented, restated or superceded from time to time, collectively, the "*Loan Documents*"), Debtor hereby assigns, transfers, conveys and grants a security interest and mortgage to Bank, as security, in and to Debtor's entire right, title and interest in, to and under the following, now or hereafter existing, created, acquired or held by Debtor (all of which shall collectively be called the "*Collateral*"):

(a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work of authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, including, without limitation, those set forth on **Exhibit A** attached hereto and incorporated herein by this reference (collectively, the "*Copyrights*").

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products;

(c) Any and all design rights which may be available to Debtor;

(d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including, without limitation, those set forth on **Exhibit B** attached hereto and incorporated herein by this reference (collectively, the "*Patents*");

(e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Debtor connected with and symbolized by such trademarks, including, without limitation, those set forth on **Exhibit C** attached hereto and incorporated herein by this reference (collectively, the "*Trademarks*");

(f) Any and all claims for damages by way of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;

(g) All licenses or other rights to use any of the Copyrights, Patents or Trademarks, (collectively, the "*Intellectual Property*") and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(h) All amendments, renewals and extensions of any of the Intellectual Property; and

(i) All proceeds and products of the foregoing, including, without limitation, all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

THE INTEREST IN THE COLLATERAL BEING ASSIGNED HEREUNDER SHALL NOT BE CONSTRUED AS A CURRENT ASSIGNMENT, BUT AS A CONTINGENT ASSIGNMENT TO SECURE ALL OF DEBTOR'S PRESENT OR FUTURE INDEBTEDNESS, OBLIGATIONS AND LIABILITIES TO BANK, INCLUDING, WITHOUT LIMITATION, SUCH INDEBTEDNESS, OBLIGATIONS AND LIABILITIES UNDER THE LOAN AGREEMENT AND THE OTHER LOAN DOCUMENTS.

**2. AUTHORIZATION AND REQUEST.** Debtor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this conditional assignment.

**3. COVENANTS AND WARRANTIES.** Debtor represents, warrants, covenants and agrees as follows:

(a) Debtor is now the sole owner of the Collateral, except for non-exclusive and limited exclusive licenses granted by Debtor to its customers in the ordinary and normal course of business as now conducted;

(b) Performance of this Security Agreement does not conflict with or result in a breach of any agreement to which Debtor is a party or by which Debtor is bound, except to the extent that certain intellectual property agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this Security Agreement constitutes as assignment;

(c) During the term of this Security Agreement, Debtor will not sell, transfer, assign or otherwise encumber any interest in the Collateral, except for (i) non-exclusive and limited exclusive licenses granted by Debtor in the ordinary and normal course of its business as now conducted or as set forth in this Security Agreement and (ii) transfers to affiliates of Debtor, subject to Debtor's execution of appropriate documents, in form acceptable to Bank, to perfect or continue the perfection of Bank's interest in the Collateral;

(d) To its knowledge, each of the Patents is valid and enforceable, and there is no Intellectual Property which has been judged invalid or unenforceable, in whole or in part, and no claim

has been made that any part of the Collateral for which a license has not been obtained violates the rights of any third party;

**(e)** Debtor shall promptly advise Bank of any material changes in the composition of the Collateral, including but not limited to any subsequent ownership right of Debtor in or to any Copyright, Patent or Trademark not specified in this Security Agreement;

**(f)** Debtor shall (i) protect, defend and maintain the validity and enforceability of the Intellectual Property, (ii) use its best efforts to detect infringements of the Intellectual Property and promptly advise Bank in writing of material infringements detected and (iii) not allow any of its Intellectual Property to be abandoned, forfeited or dedicated to the public without the written consent of Bank, which shall not be unreasonably withheld, unless Debtor determines that reasonable business practices suggest that abandonment is appropriate;

**(g)** Debtor shall promptly register the most recent version of Debtor's material Copyrights, if not so already registered, as Bank may reasonably request from time to time based on its review of the Quarterly Report (as hereinafter defined) and shall, from time to time, execute and file such other instruments, and take such further actions as Bank may reasonably request from time to time to perfect or continue the perfection of Bank's interest in the Collateral;

**(h)** This Security Agreement creates, and in the case of after acquired Collateral, this Security Agreement will create at the time Debtor first has rights in such after acquired Collateral, in favor of Bank a valid and perfected first priority security interest in the Collateral in the United States securing the payment and performance of all present or future indebtedness, obligations and liabilities of Debtor to Bank, including, without limitation, such indebtedness, obligations and liabilities under the Loan Agreement and the other Loan Documents, upon making the filings referred to in **Section 3(i)** below, subject only to Permitted Liens (as defined in the Loan Agreement);

**(i)** To its knowledge, except for, and upon, the filings with, as applicable, (1) the United States Patent and Trademark Office, (2) the Register of Copyrights and (3) the UCC Division of the California Secretary of State, necessary to perfect the security interests and assignment created hereunder, and except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any United States governmental authority or United States regulatory body is required either (a) for the grant by Debtor of the security interest granted hereby or for the execution, delivery or performance of this Security Agreement by Debtor in the United States or (b) for the perfection in the United States or the exercise by Bank of its rights and remedies hereunder;

**(j)** All information heretofore, herein or hereafter supplied to Bank by or on behalf of Debtor with respect to the Collateral is accurate and complete in all material respects;

**(k)** Debtor shall not enter into any agreement that would materially impair or conflict with Debtor's obligations hereunder without Bank's prior written consent, which consent shall not be unreasonably withheld. Debtor shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Debtor's rights and interests in any property included within the definition of the Collateral acquired under such contracts, except that certain contracts may contain anti-assignment provisions that could in effect prohibit the creation of a security interest in such contracts; and

**(l)** Upon any executive officer of Debtor obtaining actual knowledge thereof, Debtor will promptly notify Bank in writing of any event that materially adversely affects the value of any

Collateral, the ability of Debtor to dispose of any Collateral or the rights and remedies of Bank in relation thereto, including the levy of any legal process against any of the Collateral.

**4. BANK'S RIGHTS.** Bank shall have the right, but not the obligation, to take, at Debtor's sole expense, any actions that Debtor is required under this Security Agreement to take but which Debtor fails to take, after fifteen (15) days' notice to Debtor. Debtor shall reimburse and indemnify Bank for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this **Section 4**.

**5. INSPECTION RIGHTS.** Debtor hereby grants to Bank and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable written notice to Debtor, any of Debtor's plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold utilizing any of the Collateral, and to inspect the products and quality control records relating thereto upon reasonable written notice to Debtor and as often as may be reasonably requested.

**6. FURTHER ASSURANCES; ATTORNEY IN FACT.**

**(a)** On a quarterly basis, Debtor agrees to deliver to Bank a report, in form acceptable to Bank and certified by an officer of Debtor, which lists all Intellectual Property that is material to the operation of Debtor's business on an on-going basis, and in which Bank does not already have a perfected security interest (the "*Quarterly Report*"); *provided, however*, Debtor may provide a general description of the Copyrights by type. Based upon review of the Quarterly Report, Bank shall, in its reasonable discretion, identify which Intellectual Property it deems material to the operation of Debtor's business on an on-going basis or the value of the Collateral.

**(b)** On a continuing basis, Debtor will make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office and the Register of Copyrights, and take all such action as may reasonably be necessary or advisable, or as reasonably requested by Bank, to perfect Bank's security interest in all Intellectual Property, which Bank reasonably identifies pursuant to **Section 6(a)** above as material to the operation of Debtor's business on an on-going basis or the value of the Collateral, and otherwise to carry out the intent and purposes of this Security Agreement, or for assuring and confirming to Bank the grant or perfection of a security interest in all Collateral.

**(c)** Debtor hereby irrevocably appoints Bank as Debtor's attorney-in-fact, with full authority in the place and stead of Debtor and in the name of Debtor, from time to time in Bank's discretion, to take any action and to execute any instrument which Bank may reasonably deem necessary or advisable to accomplish the purposes of this Security Agreement, including (i) to modify, in its reasonable discretion, this Security Agreement without first obtaining Debtor's approval of or signature to such modification by amending Exhibit A, Exhibit B or Exhibit C hereof, as appropriate, to include reference to any material right, title or interest in any Intellectual Property acquired by Debtor after the execution hereof or to delete any reference to any right, title or interest in any Intellectual Property in which Debtor no longer has or claims any right, title or interest, (ii) to file, in its reasonable discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Debtor where permitted by law and (iii) after the occurrence and during the continuance of an Event of Default, to transfer the Collateral into the name of Bank or a third party to the extent permitted under the UCC.

7. **EVENTS OF DEFAULT.** The occurrence of any of the following shall constitute an "Event of Default" under this Security Agreement:

(a) An Event of Default occurs under the Loan Agreement or any of the other Loan Documents (as defined therein); or

(b) Debtor breaches any warranty or agreement in any material respect made by Debtor in this Security Agreement and, as to any breach that is capable of cure, Debtor fails to cure such breach within fifteen (15) days of the occurrence of such breach if notice thereof has been given to Debtor.

8. **REMEDIES.** Upon the occurrence and during the continuance of an Event of Default, Bank shall have the right to exercise all the remedies of a secured party under the UCC, including, without limitation, the right to require Debtor to assemble the Collateral and any tangible property in which Bank has a security interest and to make it available to Bank at a place designated by Bank. Bank shall have a nonexclusive, royalty free license or other right, solely pursuant to the provisions of this **Section 8**, to use, without charge, the Intellectual Property and any property of a similar nature as it pertains to the Collateral upon the occurrence and during the continuance of an Event of Default, to the extent reasonably necessary to permit Bank to exercise its rights and remedies pursuant to this **Section 8**, including, without limitation, the completion of production, advertising for sale and the sale of any Collateral and, in connection with Bank's exercise of its rights hereunder, Debtor's rights under all licenses and all franchise agreements shall inure to the benefit of Bank. Debtor will pay any expenses (including reasonable attorneys' fees) incurred by Bank in connection with the exercise of any of Bank's rights hereunder, including, without limitation, any expense incurred in disposing of the Collateral. All of Bank's rights and remedies with respect to the Collateral shall be cumulative.

9. **INDEMNITY.** Debtor agrees to defend, indemnify and hold harmless Bank and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Security Agreement and (b) all losses or expenses in any way suffered, incurred, or paid by Bank as a result of or in any way arising out of, following or consequential to transactions between Bank and Debtor, whether under this Security Agreement or otherwise (including, without limitation, reasonable attorneys' fees and reasonable expenses), except for losses arising from or out of Bank's gross negligence or willful misconduct.

10. **REASSIGNMENT.** At such time as Debtor shall completely satisfy all of the obligations secured hereunder, Bank shall execute and deliver to Debtor all deeds, assignments and other instruments as may be necessary or proper to revest in Debtor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Bank pursuant hereto.

11. **NO FAILURE OR DELAY.** No failure or delay on the part of Bank, in the exercise of any power, right or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof.

12. **ATTORNEYS' FEES.** If any action relating to this Security Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements.

13. **AMENDMENTS.** This Security Agreement may be amended only by a written instrument signed by both parties hereto.

14. **COUNTERPARTS.** This Security Agreement may be executed in any number of counterparts, each of which when so delivered shall be deemed an original, but all such counterparts shall constitute but one and the same instrument. Each such Security Agreement shall become effective upon the execution of a counterpart hereof or thereof by each of the parties hereto and telephonic notification that such executed counterparts has been received by Debtor and Bank.

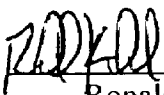
15. **GOVERNING LAW; JURISDICTION; JURY WAIVER.** This Security Agreement shall be governed by, and construed in accordance with, the internal laws of the State of California, without regard to principles of conflicts of law. Debtor and Bank consent to the exclusive jurisdiction of any state or federal court located in Santa Clara County, California. DEBTOR AND BANK EACH WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS SECURITY AGREEMENT AND ANY OTHER LOAN DOCUMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS.

16. **CONFLICT.** In the event of a conflict between any term and/or provision contained in this Security Agreement with any term and/or provision contained in the General Security Agreement (as defined in the Loan Agreement), the term and/or provision of this Security Agreement shall govern.

IN WITNESS WHEREOF, the parties hereto have executed this Security Agreement on the day and year first above written.

**BANK**

**IMPERIAL BANK**

By:   
\_\_\_\_\_  
Ronald T. Kundich  
Assistant Vice President

Address of Bank

226 Airport Parkway  
San Jose, California 95110

with a copy to:

2460 Sand Hill Road, Suite 102  
Menlo Park, California 94025  
Attention: Ronald Kundich

**DEBTOR**

**VIRAGE, INC.,**  
a Delaware corporation

By:   
\_\_\_\_\_  
Paul G. Lego  
Chief Executive Officer

Address of Debtor

177 Bovet Road, Suite 520  
San Mateo, California 94402  
Attention: Frank Pa

**EXHIBIT A**  
**COPYRIGHTS**

1. **REGISTERED:** List titles below or indicate "None"

NONE

2. **UNREGISTERED:** List titles below or indicate "None"

As previously disclosed to Bank

3. **APPLICATIONS IN PROCESS:** List titles, applicable dates, application numbers, etc. below or indicate "None"

NONE



**EXHIBIT B****U.S. PATENTS AND PATENT APPLICATIONS**

<b>PATENT No.</b>	<b>PENDING APPLICATION No.</b>	<b>TITLE</b>	<b>ISSUE DATE</b>	<b>FILING DATE</b>
	08/829,791	Similarity Engine for Content-Based Retrieval of Objects		03/28/97
	08/870,836	Key Frame Selection		06/06/97
	08/828,360	Heterogeneous Comparison		03/28/97
	08/829,790	Threshold-based Comparison		03/28/97
	08/825,831	Query Optimization for Visual Information Retrieval System		03/28/97
	08/829,789	Image Query System		03/28/97
	08/916,904	Visual Dictionary		08/21/97
	09/028,279	Indexing Method for Image Search Engine		02/24/98
	09/134,497	Video Cataloger System with Synchronized Encoders		08/14/98
	09/134,498	Video Cataloger System with Extensibility		08/14/98
	09/134,499	Video Cataloger System with Hyperlinked Output		08/14/98
	09/134,500	Video Cataloger System with Audio Track Extraction		08/14/98
	60/014,893	Similarity Engine for Content-Based Retrieval of Objects		03/29/96
	60/019,281	Virage Video: Shot Segmentation and Key Frame Selection		06/07/96
	60/025,212	Visual Dictionary		08/21/96
	60/036,011	Indexing of Features		02/24/97
	60/055,751	Virage Video Engine		08/14/97
	Pending	Embedded Metadata Engines in Digital Capture Devices		09/01/98

EXHIBIT C

U.S. TRADEMARKS AND TRADEMARK APPLICATIONS

REGISTRATION No.	PENDING APPLICATION No.	MARK	REGISTRATION DATE	FILING DATE
1,939,845		VIRAGE	12/05/95	
2,019,651		PINPOINT	11/26/96	
	75/388939	Virage "V" logo		11/12/97
	pending	VIDEOLOGGER		10/98
	pending	AUDIOLOGGER		10/98

**UNREGISTERED TRADEMARKS:** List marks below or indicate "None."

As previously disclosed to Bank