

04-09-1999

FORM PTO-1594 *MKD* REC
(Rev. 6-93) *4-1-99*



U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

To the Honorable Commissioner of Patents and

101006718

mail documents or copy thereof.

1. Name of conveying party(ies):

Live Picture, Inc.
910 East Hamilton Avenue, Suite 300
Campbell, CA 95008

- Individual(s) Association
- General Partnership Limited Partnership
- Corporation-State California
- Other _____

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

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other Collateral Assignment, Patent Mortgage and Security Agreement

Execution Date: June 15, 1998

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

Name: Venture Banking Group, a division of Cupertino National Bank

Internal Address: _____

Street Address: Three Palo Alto Square, Ste 150

City: Palo Alto State: CA ZIP 94306

- Individual(s) citizenship _____
- Association _____
- General Partnership _____
- Limited Partnership _____
- Corporation-State _____
- Other 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 No.(s)

See Exhibit "C" attached hereto and made a part hereof.

B. Trademark Registration No.(s)

Additional numbers attached? Yes No

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

Name: Cooley Godward LLP

Internal Address: Attn: April M. Piercey

Street Address: 5 Palo Alto Square

City: Palo Alto State: CA ZIP 94306

6. Total number of applications and registration involved:
16

7. Total fee (37 CFR 3.41):..... \$ 415.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number: 03-3115

(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 any attached copy is a true copy of the original document.

April M. Piercey

March 31, 1999
Date

Total number of pages including cover sheet, attachments, and document: _____

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

04/08/1999 DNGUYEN 00000168 75631583

01 FC:481 40.00 OP
02 FC:482 375.00 OP

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TRADEMARK
REEL: 1880 FRAME: 0172

EXHIBIT "C"
TRADEMARKS

TITLE	REGISTRATION/APPLICATION NUMBER	FILING DATE	OWNER OF RECORD	ASSIGNMENT HISTORY
ZOOMNETWORKS	75-631,583	02/02/99	Live Picture, Inc.	
FRIDGE DOOR	75-613,962	12/28/98	Live Picture, Inc.	
FRIDGE DOOR	75-613,961	12/28/98	Live Picture, Inc.	
ZOOMANALYZER	75-574,624	10/19/98	Live Picture, Inc.	
ZOOMPIX	75-573,493	10/19/98	Live Picture, Inc.	
ZOOMFILE	75-571,476	10/19/98	Live Picture, Inc.	
ZOOM	75-554,908	09/17/98	Live Picture, Inc.	
ZOOM	75-544,691	08/28/98	Live Picture, Inc.	
ZOOM IN FOR A CLOSER LOOK	75-515,947	05/01/98	Live Picture, Inc.	
PHOTOPROJECTS	75-448,759	03/12/98	Live Picture, Inc.	The LivePix Company assigned to Live Picture, Inc. 10/29/98
PHOTO PROJECTS	75-444,461	03/04/98	Live Picture, Inc.	The LivePix Company assigned to Live Picture, Inc. 10/29/98

EXHIBIT "C"
TRADEMARKS
(continued)

TITLE	REGISTRATION/A PPLICATION NUMBER	FILING DATE	OWNER OF RECORD	ASSIGNMENT HISTORY
REALVR	75-132,025	07/10/96	Live Picture, Inc.	Realspace Acquisition Corporation assigned to Livepicture, Inc. 08/25/98
PICTURSHOP	75-048,851	01/26/96	Live Picture, Inc.	
IMAGE CENTRAL	75-036,232	12/15/95	Live Picture, Inc.	
CLICK	75-036,231	12/15/95	Live Picture, Inc.	
PICTURE SCIRPT	74-664,122	04/20/95	Live Picture, Inc.	

COLLATERAL ASSIGNMENT, PATENT MORTGAGE AND SECURITY AGREEMENT

This Collateral Assignment, Patent Mortgage and Security Agreement is made as of the 15th day of June, 1998, by and between LIVE PICTURE, INC. ("Assignor") a California corporation, and VENTURE BANKING GROUP, a division of CUPERTINO NATIONAL BANK ("Assignee").

RECITALS

A. Assignee has agreed to lend to Assignor certain funds (the "Loan") and Assignor desires to borrow such funds from Assignee pursuant to the terms of that certain Loan and Security Agreement dated even date herewith (the "Loan Agreement"). The Loan will be evidenced by one or more promissory notes (a "Note" or, collectively, the "Notes").

B. In order to induce Assignee to make the Loan, Assignor has agreed to assign certain intangible property to Assignee for purposes of securing the obligations of Assignor to Assignee.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. **Assignment, Patent Mortgage and Grant of Security Interest.** As collateral security for the prompt and complete payment and performance of all of Assignor's present or future indebtedness, obligations and liabilities to Assignee, Assignor hereby assigns, transfers, conveys and grants a security interest and mortgage to Assignee, as security, but not as an ownership interest in and to Assignor's entire right, title and interest in, to and under the following (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 or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "Copyrights");

(b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;

(c) Any and all design rights which may be available to Assignor now or hereafter existing, created, acquired or held;

(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 the patents and patent applications set forth on Exhibit B attached hereto (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 Assignor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "Trademarks");

(f) Any and all claims for damages by way of past, present and future infringements 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, and all license fees and royalties arising from such use to the extent permitted by such license or rights;

(h) All amendments, extensions, renewals and extensions of any of the Copyrights, Trademarks or Patents;

(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; and

(j) The Collateral shall not include Assignor's interest in any licenses that would be breached by Assignor's grant of a security interest in its rights thereunder, unless the provision that would otherwise be breached would be rendered ineffective by Section 9-318 of the California Uniform Commercial Code.

THE INTEREST IN THE COLLATERAL BEING ASSIGNED HEREUNDER SHALL NOT BE CONSTRUED AS A CURRENT ASSIGNMENT, BUT AS A CONTINGENT ASSIGNMENT TO SECURE ASSIGNOR'S OBLIGATIONS TO ASSIGNEE UNDER THE NOTE AND THE LOAN AGREEMENT.

2. **Authorization and Request.** Assignor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this conditional assignment.

3. **Covenants and Warranties.** Assignor represents, warrants, covenants and agrees as follows:

(a) Assignor is now the sole owner of the Collateral, except for non-exclusive licenses granted by Assignor to its customers in the ordinary course of business;

(b) Performance of this Assignment does not conflict with or result in a breach of any agreement to which Assignor is bound;

(c) During the term of this Agreement, Assignor will not transfer or otherwise encumber any interest in the Collateral, except for non-exclusive licenses granted by Assignor in the ordinary course of business or as set forth in this Assignment;

(d) To its knowledge, each of the Patents is valid and enforceable, and no part of the Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Collateral violates the rights of any third party;

(e) Assignor shall promptly advise Assignee of any material adverse change in the composition of the Collateral, including but not limited to any subsequent ownership right of the Assignor in or to any Trademark, Patent or Copyright not specified in this Assignment;

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

(g) Assignor shall promptly register the most recent version of any of Assignor's Copyrights, if not so already registered, and shall, from time to time, execute and file such other instruments, and take such further actions as Assignee may reasonably request from time to time to perfect or continue the perfection of Assignee's interest in the Collateral;

(h) This Assignment creates, and in the case of after acquired Collateral, this Assignment will create at the time Assignor first has rights in such after acquired Collateral, in favor of Assignee a valid and perfected first priority security interest in the Collateral in the United States securing the payment and performance of the obligations under the Loan Agreement or evidenced by the Note upon making the filings referred to in clause (i) below;

(i) To its knowledge, except for, and upon, the filing with the United States Patent and Trademark office with respect to the Patents and Trademarks and the Register of Copyrights with respect to the Copyrights 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 U.S. governmental authority of U.S. regulatory body is required either (i) for the grant by Assignor of the security interest granted hereby or for the execution, delivery or performance of this Assignment by Assignor in the U.S. or (ii) for the perfection in the United States or the exercise by Assignee of its rights and remedies thereunder;

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

(k) Assignor shall not enter into any agreement that would materially impair or conflict with Assignor's obligations hereunder without Assignee's prior written consent, which consent shall not be unreasonably withheld. Assignor 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 Assignor's rights and interest in any property included within the definition of the Collateral acquired under such contracts;

(l) Upon any executive officer of Assignor obtaining actual knowledge thereof, Assignor will promptly notify Assignee in writing of any event that materially adversely affects the value of any Collateral, the ability of Assignor to dispose of any Collateral or the rights and remedies of Assignee in relation thereto, including the levy of any legal process against any of the Collateral.

4. **Assignee's Rights.** Assignee shall have the right, but not the obligation, to take, at Assignor's sole expense, any actions that Assignor is required under this Assignment to take but which Assignor fails to take, after fifteen (15) days' notice to Assignor. Assignor shall reimburse and indemnify Assignee for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this section 4.

5. **Inspection Rights.** Assignor hereby grants to Assignee and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable written notice to Assignor, and any of Assignor'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 Assignor and as often as may be reasonably requested (it being understood that any information obtained in such inspection shall be subject to the confidentiality provisions of Section 16 hereof).

6. **Further Assurances; Attorney in Fact.**

(a) On a continuing basis, Assignor will, subject to any prior licenses, encumbrances and restrictions and prospective licenses, 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 Trademarks Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Assignee, to perfect Assignee's security interest in all Copyrights, Patents and Trademarks and otherwise to carry out the intent and purposes of this Collateral Assignment, or for assuring and confirming to Assignee the grant or perfection of a security interest in all Collateral.

(b) Assignor hereby irrevocably appoints Assignee as Assignor's attorney-in-fact, with full authority in the place and stead of Assignor and in the name of Assignor, Assignee or otherwise, from time to time in Assignee's discretion, upon Assignor's failure or inability to do

so, to take any action and to execute any instrument which Assignee may deem necessary or advisable to accomplish the purposes of this Collateral Assignment, including:

(i) To modify, in its sole discretion, this Collateral Assignment without first obtaining Assignor's approval of or signature to such modification by amending Exhibit A, Exhibit B and Exhibit C, thereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents or Trademarks acquired by Assignor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents or Trademarks in which Assignor no longer has or claims any right, title or interest; and

(ii) To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral without the signature of Assignor where permitted by law.

7. Events of Default. The occurrence of any of the following shall constitute an Event of Default under the Assignment:

(a) An Event of Default occurs under the Loan Agreement or any Note; or

(b) Assignor breaches any warranty or agreement made by Assignor in this Assignment.

8. Remedies. Upon the occurrence and continuance of an Event of Default, Assignee shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including without limitation the right to require Assignor to assemble the Collateral and any tangible property in which Assignee has a security interest and to make it available to Assignee at a place designated by Assignee. Assignee shall have a nonexclusive, royalty free license to use the Copyrights, Patents and Trademarks to the extent reasonably necessary to permit Assignee to exercise its rights and remedies upon the occurrence of an Event of Default. Assignor will pay any expenses (including reasonable attorney's fees) incurred by Assignee in connection with the exercise of any of Assignee's rights hereunder, including without limitation any expense incurred in disposing of the Collateral. All of Assignee's rights and remedies with respect to the Collateral shall be cumulative.

9. Indemnity. Assignor agrees to defend, indemnify and hold harmless Assignee 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 Agreement, and (b) all losses or expenses in any way suffered, incurred, or paid by Assignee as a result of or in any way arising out of, following or consequential to transactions between Assignee and Assignor, whether under this Assignment or otherwise (including without limitation, reasonable attorneys fees and reasonable expenses), except for losses arising from or out of Assignee's gross negligence or willful misconduct.

10. Reassignment. At such time as Assignor shall completely satisfy all of the obligations secured hereunder, Assignee shall execute and deliver to Assignor all deed, assignments, and other instruments as may necessary or proper to reinvest in Assignor full title to

the property assigned hereunder, subject to any disposition thereof which may have been made by Assignee pursuant hereto.

11. **Course of Dealing.** No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

12. **Attorneys' Fees.** If any action relating to this Assignment 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 Assignment may be amended only by a written instrument signed by both parties hereto.

14. **Counterparts.** This Assignment may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.

15. **California Law and Jurisdiction.** This Assignment shall be governed by the laws of the State of California, without regard for choice of law provisions. Assignor and Assignee consent to the nonexclusive jurisdiction of any state or federal court located in Santa Clara County, California.

16. **Confidentiality.** In handling any confidential information, Assignee shall exercise the same degree of care that it exercises with respect to its own proprietary information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this Assignment except that the disclosure of this information may be made (i) to the affiliates of the Assignee, (ii) to prospective transferee or purchasers of an interest in the obligations secured hereby, provided that they have entered into comparable confidentiality agreement in favor of Assignor and have deliver a copy to Assignor, (iii) as required by law, regulation, rule or order, subpoena judicial order or similar order and (iv) as may be required in connection with the examination, audit or similar investigation of Assignee.

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

Address of Assignor:

910 East Hamilton Avenue, Suite 300
Campbell, CA 95008

Address of Assignee:

Three Palo Alto Square, Suite 150
Palo Alto, CA 94306

ASSIGNOR:

LIVE PICTURE, INC.

By: Mark Kalow
Printed Name: mark kalow
Title: CFO

ASSIGNEE:

VENTURE BANKING GROUP

By: Jeff
Printed Name: Jeff Blaine
Title: V.P.

Exhibit "A" attached to that certain Collateral Assignment, Patent Mortgage and Security Agreement dated June 15, 1998.

EXHIBIT "A"

COPYRIGHTS

SCHEDULE A – ISSUED COPYRIGHTS

None

SCHEDULE –PENDING COPYRIGHT APPLICATIONS

None

Exhibit "B" attached to that certain Collateral Assignment, Patent Mortgage and Security Agreement dated June 15, 1998.

EXHIBIT "B"

PATENTS

None

**EXHIBIT "C"
TRADEMARKS**

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ZOOMNETWORKS	75-631,583	02/02/99	Live Picture, Inc.	
FRIDGE DOOR	75-613,962	12/28/98	Live Picture, Inc.	
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