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U.S. Patent & TMOfo/TM Mail RptDt. #26

U.S. Department of Commerce  
Patent and Trademark Office  
**TRADEMARK**

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### RECORDATION FORM COVER SHEET TRADEMARKS ONLY

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

#### Submission Type

- New
- Resubmission (Non-Recordation)  
Document ID # \_\_\_\_\_
- Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_
- Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

#### Conveyance Type

- Assignment
- License
- Security Agreement
- Nunc Pro Tunc Assignment
- Merger  
Effective Date  
Month Day Year \_\_\_\_\_
- Change of Name
- Other \_\_\_\_\_

#### Conveying Party

Mark if additional names of conveying parties attached

Execution Date  
Month Day Year

Name IRISCAN, INC

2-3-2000

Formerly \_\_\_\_\_

- Individual
- General Partnership
- Limited Partnership
- Corporation
- Association
- Other \_\_\_\_\_

Citizenship/State of Incorporation/Organization DELAWARE

#### Receiving Party

Mark if additional names of receiving parties attached

Name COMMERCE BANK, N.A.

DBA/AKATA \_\_\_\_\_

Composed of \_\_\_\_\_

Address (line 1) 1701 ROUTE 70 EAST

Address (line 2) \_\_\_\_\_

Address (line 3) CHERY HILL NEW JERSEY 08034

- Individual
  - General Partnership
  - Limited Partnership
  - Corporation
  - Association
  - Other \_\_\_\_\_
- If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Citizenship/State of Incorporation/Organization \_\_\_\_\_

#### FOR OFFICE USE ONLY

04/17/2000 DNGUYEN 00000167 75330021

01 FC:481 40.00 OP  
02 FC:482 275.00 OP

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

**TRADEMARK**  
REEL: 002053 FRAME: 0471

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages** Enter the total number of pages of the attached conveyance document including any attachments.

#

**Trademark Application Number(s) or Registration Number(s)**

Mark if additional numbers attached

Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

**Trademark Application Number(s)**

**Registration Number(s)**

<input type="text" value="75/330,021"/>	<input type="text" value="75/330,012"/>	<input type="text" value="75/683,266"/>
<input type="text" value="75/712,596"/>	<input type="text" value="75/846,456"/>	<input type="text" value="75/846,450"/>
<input type="text" value="75/786,324"/>	<input type="text" value="75/714,842"/>	<input type="text" value="75/848,371"/>

<input type="text" value="1,983,014"/>	<input type="text" value="1,983,038"/>	<input type="text" value="2,302,544"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
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**Number of Properties** Enter the total number of properties involved.

#

**Fee Amount** Fee Amount for Properties Listed (37 CFR 3.41):

\$

Method of Payment: Enclosed  Deposit Account

Deposit Account (Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

**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. Charges to deposit account are authorized, as indicated herein.

TONYA CHAPPLE

Name of Person Signing

*Tonya Chapple*

Signature

3-17-2000

Date Signed

## TRADEMARK SECURITY AGREEMENT

This Trademark Security Agreement ("Agreement") is made this 3<sup>rd</sup> day of February, 2000, by IRISCAN, INC., a Delaware corporation having a mailing address of 9 East Stowe Drive, Suite F, Marlton, New Jersey 08054 ("Borrower") and delivered to COMMERCE BANK, N.A. ("Lender").

### BACKGROUND

A. This Agreement is being executed contemporaneously with that certain Second Amendment and Modification to Loan and Security Agreement of even date herewith between Borrower and Lender (as it may hereafter be amended, supplemented or replaced, the "Loan Agreement"), under which Borrower is granting Lender a lien on and security interest in certain assets of Borrower associated with or relating to services or products sold under Borrower's trademarks and the goodwill associated therewith, and under which Lender is entitled to foreclose or otherwise deal with such assets under the terms and conditions set forth therein. Capitalized terms not defined herein shall have the meanings given to such terms in the Loan Agreement.

B. Borrower has adopted, used and is using (or has filed applications for the registration of) the trademarks, servicemarks and tradenames listed on Schedule "A" attached hereto and made part hereof (all such marks or names hereinafter referred to as the "Trademarks").

C. Pursuant to the Loan Agreement, Lender is acquiring a lien on, security interest in and a license to use the Trademarks and the registration thereof, together with all the goodwill of Borrower associated therewith and represented thereby, as security for all of Borrower's Obligations (as defined in the Loan Agreement), and Lender desires to have its security interest in such Trademarks confirmed by a document identifying same and in such form that it may be recorded in the United States Patent and Trademark Office.

NOW THEREFORE, with the foregoing Background hereinafter deemed incorporated by reference and made a part hereof, and in consideration of the premises and mutual promises herein contained, the parties hereto, intending to be legally bound hereby, covenant and agree as follows:

1. In consideration of and pursuant to the terms of the Loan Agreement, and for other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, and to secure Borrower's Obligations, Borrower grants to Lender a lien on and security interest in all of Borrower's present and future right, title and interest in and to the Trademarks, together with all the goodwill of Borrower associated with and represented by the Trademarks, and the registration thereof and the right (but not the obligation) to sue for past, present and future infringements, and the proceeds thereof, including, without limitation, license royalties and proceeds of infringement suits.

2. Borrower hereby covenants and agrees to maintain the Trademarks in full force and effect until all of Borrower's Obligations are satisfied in full.

3. Borrower represents, warrants and covenants to Lender that:

(a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable;

(b) All of the Trademarks are registered, valid and enforceable;

(c) Borrower is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, and each of the Trademarks is free and clear of any liens, charges and encumbrances including, without limitation, pledges, assignments, licenses (other than to Borrower and Lender hereunder) and covenants by Borrower not to sue third persons;

(d) Borrower has the unqualified right, power and authority to enter into this Agreement and perform its terms;

(e) Borrower has complied with, and will continue for the duration of this Agreement to comply with the requirements set forth in 15 U.S.C. §1051-1127 and any other applicable statutes, rules and regulations in connection with its use of the Trademarks except where failure to comply would not have a material adverse effect on Borrower or its Property; and

(f) Borrower has used and will continue to use for the duration of this Agreement, consistent standards of quality in services or products leased or sold under the Trademarks and hereby grants to Lender and its employees and agents the right (with no obligation of any kind upon Lender to do so) to visit Borrower's affiliates, franchises or management locations and to inspect the use of the Trademarks and quality control records relating thereto at reasonable times during regular business hours to ensure Borrower's compliance with this paragraph 3(f).

4. Borrower further covenants that:

(a) Until all the Borrower's Obligations have been satisfied in full, Borrower will not enter into any agreement, including, without limitation, license agreements or options, which are inconsistent with Borrower's obligations under this Agreement, Borrower obligations under the Loan Agreement or which restrict or impair Lender's rights hereunder.

(b) If Borrower acquires rights to any new Trademarks, the provisions of this Agreement shall automatically apply thereto and such trademarks shall be deemed part of the Trademarks. Borrower shall give Lender prompt written notice thereof along with an amended Schedule "A."

5. So long as this Agreement is in effect and so long as Borrower has not received notice from Lender that an Event of Default has occurred and is continuing under the Loan Agreement and that Lender has not elected to exercise its rights hereunder (i) Borrower shall continue to have the exclusive right to use the Trademarks; and (ii) Lender shall have no right to use the Trademarks or issue any exclusive or non-exclusive license with respect thereto, or assign, pledge or otherwise transfer title in the Trademarks to anyone else.

6. Borrower agrees not to sell, license, grant any option, assign or further encumber its rights and interest in the Trademarks to any entity or person other than Borrower without the prior written consent of Lender.

7. Anything herein contained to the contrary notwithstanding, if and while Borrower shall be in default hereunder or an Event of Default exists under the Loan Agreement, Borrower hereby covenants and agrees that Lender, as the holder of a security interest under the Uniform Commercial Code, as now or hereafter in effect in New Jersey, may take such action permitted hereunder, in its exclusive discretion, to foreclose upon the Trademarks covered hereby. For such purposes, and in the event of Borrower's default hereunder or an Event of Default under the Loan Agreement and while such default or Event of Default exists, Borrower hereby authorizes and empowers Lender to make, constitute and appoint any officer or agent of Lender as Lender may select, in its exclusive discretion, as Borrower's true and lawful attorney-in-fact, with the power to endorse Borrower's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks or to grant or issue any exclusive or non-exclusive license under the Trademarks to anyone else, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else including, without limitation, the power to execute a trademarks assignment in the form attached hereto as Exhibit 1. Borrower hereby ratifies all that such attorney or agent shall lawfully do or cause to be done by virtue hereof, except for the gross negligence or willful misconduct of such attorney or agent. This power of attorney shall be irrevocable for the life of this Agreement, the Loan Documents, and until all Borrower's Obligations are indefeasibly paid and satisfied in full.

8. This Agreement shall be subject to the terms, provisions, and conditions set forth in the Loan Agreement and may not be modified without the written consent of the party against whom enforcement is being sought.

9. All rights and remedies herein granted to Lender shall be in addition to any rights and remedies granted to Lender under the Loan Documents. In the event of an inconsistency between this Agreement and Loan Agreement, the language of this Agreement shall control.

10. Upon Borrower's performance of all of the obligations under the Loan Documents and full and unconditional satisfaction of all of the Borrower's Obligations, Lender shall execute and deliver to Borrower all documents reasonably necessary to terminate Lender's security interest in the Trademarks.

11. Any and all reasonable fees, costs and expenses, of whatever kind or nature, including the reasonable attorneys' fees and legal expenses incurred by Lender in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, reasonable counsel fees, maintenance fees, encumbrances or costs otherwise incurred in protecting, maintaining, preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, in each case in accordance with the terms of this Agreement, shall be borne and paid by Borrower on demand by Lender and until so

paid shall be added to the principal amount of Borrower's Obligations to Lender and shall bear interest at the rate prescribed in the Loan Agreement for the Revolving Credit.

12. Subject to the terms of the Loan Agreement, Borrower shall have the duty to prosecute diligently any application and/or registration with respect to the Trademarks pending as of the date of this Agreement or thereafter, until Borrower's Obligations shall have been satisfied in full, to preserve and maintain all rights in the Trademarks, and upon reasonable request of Lender, Borrower shall make federal application on registerable but unregistered Trademarks belonging to Borrower and licensed to Borrower. Any reasonable expenses incurred in connection with such applications shall be borne exclusively by Borrower. Borrower shall not abandon any Trademarks without the prior written consent of the Lender, which consent shall not be unreasonably withheld.

13. Borrower shall have the right to bring suit in its own name to enforce the Trademarks, in which event Lender may, if Borrower reasonably deems it necessary, be joined as a nominal party to such suit if Lender shall have been satisfied, in its sole discretion, that it is not thereby incurring any risk of liability because of such joinder. Borrower shall promptly, upon demand, reimburse and indemnify Lender for all damages, costs and expenses, including reasonable attorneys' fees and costs, incurred by Lender in the fulfillment of the provisions of this paragraph.

14. Upon the occurrence of an Event of Default under the Loan Agreement or hereunder, Lender may, without any obligation to do so, complete any obligation of Borrower hereunder, in Borrower's name or in Lender's name, but at the expense of Borrower, and Borrower hereby agrees to reimburse Lender in full for all expenses, including, without limitation, all attorneys' fees incurred by Lender in protecting, defending and maintaining the Trademarks.

15. No course of dealing between Borrower and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder, shall operate as a waiver thereof, and all of Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Loan Documents, or by any other future agreements between Borrower and Lender or by law, shall be cumulative and may be exercised singularly or concurrently.

16. The provisions of this Agreement are severable and the invalidity or unenforceability of any provision herein shall not affect the remaining provisions which shall continue unimpaired and in full force and effect.

17. This Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

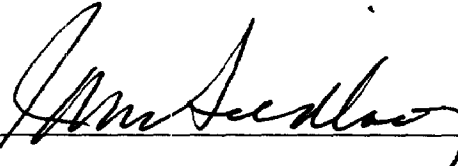
18. This Agreement shall be governed by and construed in conformity with the laws of the State of Arizona, without regard to its otherwise applicable principles of conflicts of laws.

19. Borrower agrees to the jurisdiction of the State and Federal Courts located in Maricopa County, Arizona and to service by certified mail, return receipt requested at the address of the Borrower.

20. BORROWER AND LENDER EACH WAIVES ANY AND ALL RIGHTS EITHER MAY HAVE TO A JURY TRIAL ARISING IN CONNECTION WITH ANY PROCEEDING OR CONTROVERSY RELATING TO THIS AGREEMENT OR ANY OTHER AGREEMENT BETWEEN BORROWER AND LENDER.

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

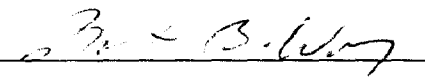
Borrower:  
**IRISCAN, INC.**

By:   
Name: JOHN E SIEGELMAN  
Title: PRES / CEO  
(Corporate Seal)

Address: 9 East Stowe Drive, Suite F  
Marlton, NJ 08054

Approved and Accepted:

**COMMERCE BANK, N.A.**

By:   
Name: Robert B. Cowley  
Title: R.V.P.

CORPORATE ACKNOWLEDGMENT

UNITED STATES OF AMERICA  
STATE OF New Jersey  
COUNTY OF Burlington

:  
:  
:

SS 2111416

On this 3<sup>rd</sup> day of February, 2000, before me personally appeared John E. Siedlarz, to me known and being duly sworn, deposes and says that he is the President of IRISCAN, INC., the corporation described in the foregoing Agreement; that he knows the seal of the corporation; that the seal so affixed to the Agreement is such corporate seal; that he signed the Agreement and affixed the seal of the corporation thereto as such officer pursuant to the authority vested in him by law; that the within Agreement is the voluntary act of such corporation; and he desires the same to be recorded as such.

Elizabeth J. Trzeciak  
Notary Public

My Commission Expires:

ELIZABETH J. TRZECIAK  
ELIZABETH J. TRZECIAK  
Notary Public State of New Jersey  
My Commission Expires Jan. 5, 2004



**SCHEDULE A**

<b>TRADEMARK</b>	<b>APPLICATION OR REGISTRATION NO.</b>	<b>Country</b>	<b>APPLICATION OR REGISTRATION DATE</b>
IRISCAN	1,983,014	USA	June 25, 1996
IRISCAN and Design	1,983,038	USA	June 25, 1996
IRISCAN and Design	147124	CTM	September 16, 1987
IRISCAN Logo	4,237,651	Japan	February 5, 1999
IRISCODE	2,302,544	USA	December 21, 1999
IRISENGINE	75/330,021	USA	July 24, 1997
SETTING THE STANDARD IN BIOMETRIC IDENTIFICATION	75/330,012	USA	July 24, 1997
IRISKEY	75/683,266	USA	April 14, 1999
IRISACCESS	75/712,596	USA	May 24, 1999
IRISRX	75/846,456	USA	November 11, 1999
IRISECURE	75/846,450	USA	November 11, 1999
PC IRIS	75/786,324	USA	August 26, 1999
IRISCELL	75/714,842	USA	May 27, 1999
IRISMED	75/848,371	USA	November 11, 1999

TRADEMARK ASSIGNMENT

WHEREAS, IriScan, Inc., a Delaware corporation ("Grantor"), to secure its obligations to Grantee (defined below) under that certain Trademark Security agreement of even date herewith, is the registered owner of the United States trademarks, tradenames and registrations listed on Schedule A attached hereto and made a part hereof (the "Trademarks"), which are registered in the United States Patent and Trademark Office; and

WHEREAS, Commerce Bank, N.A. ("Grantee") as Lender to Grantor, having a place of business at 1701 Route 70 East, Cherry Hill, New Jersey 08034-5400, is desirous of acquiring a security interest in the Trademarks;

NOW THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and intending to be legally bound hereby, to secure its obligations to Grantee under that certain Trademark Security Agreement of even date herewith, Grantor, its successors and assigns, does hereby transfer, assign and set over unto Grantee, its successors, transferees and assigns, all of its present and future right, title and interest in and to the Trademarks and all proceeds thereof and all goodwill associated therewith, Grantor's rights and privileges and Grantee's obligations and restrictions under that certain Trademark Security Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Trademark Assignment to be executed as of the \_\_\_\_ day of February 2000.

**IRISCAN, INC.**

Witness: \_\_\_\_\_

By: \_\_\_\_\_  
As Attorney-in-fact

**CORPORATE ACKNOWLEDGMENT**

UNITED STATES OF AMERICA :  
STATE OF NEW JERSEY : SS  
COUNTY OF CAMDEN :

On this the \_\_\_\_ day of February, 2000 before me a Notary Public for the said County and State, personally appeared \_\_\_\_\_ known to me or satisfactorily proven to me to be attorney-in-fact on behalf of IriScan, Inc. ("Grantor"), and he acknowledged to me that they executed the foregoing Trademark Assignment on behalf of Grantor, and as the act and deed of Grantor for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
(Individual Notary)

My Commission Expires:

\_\_\_\_\_

**SCHEDULE A**

<b>TRADEMARK</b>	<b>APPLICATION OR REGISTRATION NO.</b>	<b>Country</b>	<b>APPLICATION OR REGISTRATION DATE</b>
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