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4.10.00

05-02-2000



Docket No.:

133532

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To the Honorable Commissioner of Patents

101341811

Attached original documents or copy thereof.

1. Name of conveying party(ies):

Ultimate Technology Corporation

- Individual(s)
- General Partnership
- Corporation-State New York
- Other

Additional names(s) of conveying party(ies) Yes No

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Association
- Limited Partnership
- Merger
- Change of Name

Execution Date: February 18, 2000

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

Name: Firststar Bank, National Association

Internal Address:

Street Address: 425 Walnut Street

City: Cincinnati State: OH ZIP: 45202

- Individual(s) citizenship
- Association
- General Partnership
- Limited Partnership
- Corporation-State
- Other National Banking Association

If assignee is not domiciled in the United States, a domestic designation is Yes No
(Designations must be a separate document from Additional name(s) & address(es) Yes No

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2,022,127
2,023,727

Additional numbers Yes No

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

Name: Neal L. Slifkin, Esq.

Internal Address: HARRIS BEACH & WILCOX, LLP.

Street Address: 130 East Main Street

City: Rochester State: NY ZIP: 14604

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41): \$ 65.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

08-0865

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.

Neal L. Slifkin, Esq.

Name of Person Signing

Signature

3/31/00

Date

Total number of pages including cover sheet, attachments, and

11

TRADEMARK

REEL: 002063 FRAME: 0001

SCHEDULE A
(Patents)

1. Patent Number D371,777
2. Patent Number 5668,358

SCHEDULE B
(Trademarks)

UltimateTechnology, Registered December 10, 1996

“U” and Design, Registered December 17, 1996

SCHEDULE C
(License Agreements)

None

CONTINGENT PATENT, TRADEMARK AND LICENSE ASSIGNMENT

THIS CONTINGENT PATENT, TRADEMARK AND LICENSE ASSIGNMENT ("Assignment") is made ULTIMATE TECHNOLOGY CORPORATION, a corporation having its principal office and place of business at 100 Rawson Road, Victor, New York 14564 ("Assignor"), in favor of FIRSTAR BANK, NATIONAL ASSOCIATION, a national banking association whose address is 425 Walnut Street, Cincinnati, Ohio 45202 ("Assignee"):

W I T N E S S E T H:

WHEREAS, Assignor and Assignee are parties to a certain Financing Agreement of even date herewith (as the same may hereafter be amended, supplemented, amended and restated, renewed or otherwise modified from time to time, the "Financing Agreement"), which Financing Agreement provides (i) for the Assignee to, from time to time, extend credit to or for the account of Assignor and (ii) for the grant by Assignor to Assignee of a security interest in certain of Assignor's assets, including, without limitation, its patents, patent applications, service marks, service mark applications, service names, trademarks, trademark applications, trade names, goodwill and licenses;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. Incorporation of Financing Agreement. The Financing Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto.

2. Assignment of Patents. To secure the complete and timely satisfaction of all of the "Obligations" (as defined in the Financing Agreement), Assignor hereby grants, assigns and conveys to Assignee all of the Assignor's right, title and interest in and to all of its now owned or existing and filed and hereafter acquired or arising and filed:

(i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents listed on Schedule A, attached hereto and made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "Patents"); and

(ii) license agreements with any other party, whether Assignor is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on Schedule C attached hereto and made a part hereof, and the right to prepare for sale, sell and advertise for sale, all "Inventory" (as defined in the Financing Agreement) now or hereafter owned by Assignor and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the "Licenses").

3. Security Interest in Trademark and Goodwill. To secure the complete and timely satisfaction of all of the "Obligations" (as defined in the Financing Agreement), Assignor hereby grants and conveys to Assignee a lien and security interest in all of the Assignor's right, title and interest in and to all of its now owned or existing and filed and hereafter acquired or arising and filed:

(i) trademarks, trademark registrations, trade names and trademark applications, service marks, service mark registrations, service names and service mark applications, including, without limitation, the trademarks, trademark registrations, trade names and trademark applications, service marks, service mark registrations, service names and service mark applications listed on Schedule B, attached hereto and made a part thereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payment for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing trademarks, service marks, trademark and service mark registrations, trade names, service names and applications, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "Trademarks,"); and

(ii) the goodwill of Assignor's business including but not by way of limitation such goodwill connected with and symbolized by the Trademarks.

4. Restrictions on Future Assignments. Assignor agrees that until the Obligations shall have been satisfied in full and the Financing Agreement shall have been terminated, Assignor will not, without Assignee's prior written consent, enter into any agreement relating to the Patents, Trademarks or Licenses (for example, a license agreement) and Assignor further agrees that it will not take any action, or permit any action to be taken by others subject to its control including licensees, or fail to take any action which would affect the validity or enforcement of the rights transferred to Assignee under this Assignment.

5. New Patents, Trademarks, and Licenses. Assignor represents and warrants that the Patents, Trademarks and Licenses listed on Schedules A, B and C, respectively, constitute all of the patents, service marks, trademarks, applications and licenses now owned by Assignor. If, before the Obligations shall have been satisfied in full, Assignor shall (i) obtain rights to any new patentable inventions, trademarks, trademark registrations, trade names, service marks, service mark registrations, service names, or licenses, or (ii) become

entitled to the benefit of any patent, service mark or trademark application, service mark, service mark registration, trademark, trademark registration, or license renewal, or patent for any reissue, division, continuation renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of this Assignment shall automatically apply thereto and Assignor shall give to Assignee prompt written notice thereof. Assignor hereby authorizes Assignee as attorney in fact to modify this Assignment by amending Schedules A, B and/or C, as applicable, to include any future patents, patent applications, service marks, service mark registrations, service mark applications, service names, trademarks, trademark registrations, trademark applications, trade names and licenses which are Patents, Trademarks or Licenses, as applicable, under Paragraphs 2 and 3 above or under this Paragraph 5, and to file or refile this Assignment with the United States Patent and Trademark Office.

6. Representations and Warranties. Assignor represents and warrants to and agrees with Assignee that:

(i) The Patents and Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

(ii) To the best knowledge of Assignor, each of the Patents and Trademarks is valid and enforceable;

(iii) Assignor is the owner of the Patents and Trademarks and has the power and authority to make, and will continue to have authority to perform, this Assignment according to its terms;

(iv) To the best knowledge of Assignor, this Assignment does not violate and is not in contravention of any other agreement to which Assignor is a party or any judgment or decree by which Assignor is bound and does not require any consent under any other agreement to which Assignor is a party or by which Assignor is bound;

(v) There has been no prior sale, pledge, encumbrance, assignment or other transfer or disposition of any of the Patents, Trademarks or Licenses or any part thereof and the same are free from all liens, charges and encumbrances of any kind, including but not limited to licenses, shop rights and covenants not to sue third persons, other than Permitted Liens (as defined in the Financing Agreement); and

(vi) To the best knowledge of Assignor, the Licenses, if any, are valid and binding agreements enforceable according to their terms. Each of such Licenses is in full force and effect and has not been amended or abrogated and to the best knowledge of Assignor there is no default under any of the Licenses.

7. Royalties; Terms. Assignor hereby agrees that the use by Assignee of all Patents, Trademarks and Licenses as described above shall be worldwide and without any liability for

royalties or other related charges from Assignee to the Assignor. The term of the assignments granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Trademarks and Licenses assigned hereunder, or (ii) the Obligations have been paid in full and the Financing Agreement has been terminated.

8. Grant of License to Assignor. Unless and until an "Event of Default" (as defined in the Financing Agreement) shall have occurred, Assignee hereby grants to Assignor a nontransferable right and license to use the Trademarks, to exercise Assignee's rights under the Licenses, and to make, have made, use and sell the inventions disclosed and claimed in the Patents for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this Paragraph 8, without the prior written consent of Assignee. From and after the occurrence of an Event of Default, Assignor's license with respect to Patents, Trademarks and Licenses as set forth in this Paragraph 8 shall terminate forthwith, and Assignee shall have, in addition to all other rights and remedies given it by this Assignment, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents, Trademarks or Licenses may be located, including, but not by way of limitation, the location of Assignee's headquarters.

9. Reassignment to Assignor. Upon payment in full of the obligations and termination of the Financing Agreement, Assignee shall execute and deliver to Assignor all assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Patents, Trademarks and Licenses, subject to any disposition thereof which may have been made by Assignee pursuant hereto or pursuant to the Financing Agreement.

10. Duties of Assignor. Assignor shall have the duty to (i) prosecute diligently any patent application of the Patents made by it and any trademark or service mark application of the Trademarks made by it pending as of the date hereof or thereafter until the Obligations shall have been paid in full, (ii) make application on unpatented but patentable inventions and on trademarks and service marks, as appropriate, and (iii) preserve and maintain all of its rights in patent applications and patents of the Patents and in trademark applications, trademarks, trademark registrations, service mark applications, service marks, and service mark registrations of the Trademarks. Any expenses incurred in connection with such applications shall be borne by Assignor. Assignor shall not abandon any right to file a Patent application or Trademark application, or any pending Patent application, Trademark application, Patent, nor Trademark without the consent of Assignee

11. Financing Statements; Documents. At the request of Assignee, Assignor will join with Assignee in executing one or more financing statements pursuant to the Ohio version of the Uniform Commercial Code in form satisfactory to Assignee and will pay the costs of filing and/or recording this Assignment and all financing, continuation and termination statements in all public offices where filing or recording is deemed necessary or desirable by Assignee. Assignor will execute and deliver to Assignee from time to time such supplemental

assignments or other instruments, including, but not by way of limitation, additional assignments to be filed with the United States Patent and Trademark office, as Assignee may require for the purpose of confirming Assignee's interest in the Patents, Trademarks and Licenses.

Assignor hereby authorizes the Commissioner of Patents and Trademarks to issue any and all Patents on said inventions and any and all certificates of registration on all Trademarks to Assignee as assignee of Assignor's entire interest

12. Assignee's Right to Sue. Assignee shall have the same rights, if any, as Assignor has, but shall in no way be obligated, to bring suit in its own name to enforce the Licenses and the Patents and Trademarks, and any licenses thereunder, and, if Assignee shall commence any such suit, Assignor shall, at the request of Assignee, do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignor shall promptly, upon demand and as a part of the obligations, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of its rights under this Paragraph 12. After first giving Assignee a reasonable opportunity to bring suit in its own name to enforce the Licenses and the Patents and Trademarks, and any licenses thereunder, Assignor may bring such suit in its own name.

13. Waivers. No course of dealing between Assignor and Assignee nor any failure to exercise nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Financing Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

14. Severability. The provisions of this Assignment are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Assignment in any jurisdiction.

15. Modification. This Assignment cannot be altered, amended or modified in any way, except as specifically provided in Paragraph 5 hereof or by a writing signed by the parties hereto.

16. Cumulative Remedies; Effect on Financing Agreement. All of Assignee's rights and remedies with respect to the Patents, Trademarks and Licenses, whether established hereby or by the Financing Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Assignor acknowledges and agrees that this Assignment is not intended to limit or restrict in any way the rights and remedies of Assignee under the Financing Agreement but rather is intended to facilitate the exercise of such rights and remedies.

17. Binding Effect: Benefits. This Assignment shall be binding upon the Assignor and its respective successors and assigns, and shall inure to the benefit of Assignee, its successors and assigns.

18. Governing Law This Assignment has been delivered and accepted in Rochester, New York, and shall be governed by and construed in accordance with the local laws of the State of New York.

IN WITNESS WHEREOF, ULTIMATE TECHNOLOGY CORPORATION, by its duly authorized officer, has executed this Assignment as of the 18 day of February, 2000.

ULTIMATE TECHNOLOGY CORPORATION

By: Samuel J. Villante

Its: President

STATE OF NEW YORK

ss:

COUNTY OF MONROE

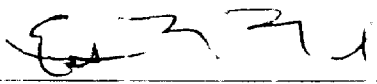
The foregoing Contingent Patent, Trademark and License Assignment was executed and acknowledged before me this 18th day of February, 2000, by Samuel J. Villante, the President of Ultimate Technology Corporation, on behalf of the corporation.

ELIZABETH C. BRICE
Notary Public, State of New York
Qualified in Ontario County
Commission Expires Dec. 11 2001

Elizabeth C. Brice
Notary Public

Accepted at Rochester, New York
as of February 18, 2000.

FIRSTAR BANK, NATIONAL ASSOCIATION

By: 

Title: Vice President

MAD
4.10.00

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

Docket No.:
133532

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COPY

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

1. Name of conveying party(ies):
Ultimate Technology Corporation

Individual(s) Association
 General Partnership Limited Partnership
 Corporation-State **New York**
 Other _____

Additional names(s) of conveying party(ies) Yes No

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

Name: **Firstar Bank, National Association**

Internal Address: _____

Street Address: **425 Walnut Street**

City: **Cincinnati** State: **OH** ZIP: **45202**

Individual(s) citizenship _____
 Association _____
 General Partnership _____
 Limited Partnership _____
 Corporation-State _____
 Other **National Banking Association**

If assignee is not domiciled in the United States, a domestic designation is Yes N
(Designations must be a separate document from
Additional name(s) & address(es) Yes N

3. Nature of conveyance:

Assignment Merger
 Security Agreement Change of Name
 Other _____

Execution Date: **February 18, 2000**

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

A. Trademark Application No.(s)

Additional numbers Yes No

B. Trademark Registration No.(s)

2,022,127
2,023,727

Yes No

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

Name: **Neal L. Slifkin, Esq.**

Internal Address: **HARRIS BEACH & WILCOX, LLP.**

Street Address: **130 East Main Street**

City: **Rochester** State: **NY** ZIP: **14604**

6. Total number of applications and registrations involved: **2**

7. Total fee (37 CFR 3.41):.....\$ **\$65.00**

Enclosed
 Authorized to be charged to deposit account

8. Deposit account number:

08-0865

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.

Neal L. Slifkin, Esq. *Neal Slifkin* **3/31/00**

Name of Person Signing Signature Date

Total number of pages including cover sheet, attachments, and **11**

CONTINGENT PATENT, TRADEMARK AND LICENSE ASSIGNMENT

THIS CONTINGENT PATENT, TRADEMARK AND LICENSE ASSIGNMENT ("Assignment") is made ULTIMATE TECHNOLOGY CORPORATION, a corporation having its principal office and place of business at 100 Rawson Road, Victor, New York 14564 ("Assignor"), in favor of FIRSTAR BANK, NATIONAL ASSOCIATION, a national banking association whose address is 425 Walnut Street, Cincinnati, Ohio 45202 ("Assignee"):

WITNESSETH:

WHEREAS, Assignor and Assignee are parties to a certain Financing Agreement of even date herewith (as the same may hereafter be amended, supplemented, amended and restated, renewed or otherwise modified from time to time, the "Financing Agreement"), which Financing Agreement provides (i) for the Assignee to, from time to time, extend credit to or for the account of Assignor and (ii) for the grant by Assignor to Assignee of a security interest in certain of Assignor's assets, including, without limitation, its patents, patent applications, service marks, service mark applications, service names, trademarks, trademark applications, trade names, goodwill and licenses;

NOW, THEREFORE, in consideration of the premises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor agrees as follows:

1. Incorporation of Financing Agreement. The Financing Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto.

2. Assignment of Patents. To secure the complete and timely satisfaction of all of the "Obligations" (as defined in the Financing Agreement), Assignor hereby grants, assigns and conveys to Assignee all of the Assignor's right, title and interest in and to all of its now owned or existing and filed and hereafter acquired or arising and filed:

(i) patents and patent applications, including, without limitation, the inventions and improvements described and claimed therein, and those patents listed on Schedule A, attached hereto and made a part hereof, and (a) the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past or future infringements thereof. (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing patents and applications, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "Patents"); and

(ii) license agreements with any other party, whether Assignor is a licensor or licensee under any such license agreement, including, without limitation, the licenses listed on Schedule C attached hereto and made a part hereof, and the right to prepare for sale, sell and advertise for sale, all "Inventory" (as defined in the Financing Agreement) now or hereafter owned by Assignor and now or hereafter covered by such licenses (all of the foregoing is hereinafter referred to collectively as the "Licenses").

3. Security Interest in Trademark and Goodwill. To secure the complete and timely satisfaction of all of the "Obligations" (as defined in the Financing Agreement), Assignor hereby grants and conveys to Assignee a lien and security interest in all of the Assignor's right, title and interest in and to all of its now owned or existing and filed and hereafter acquired or arising and filed:

(i) trademarks, trademark registrations, trade names and trademark applications, service marks, service mark registrations, service names and service mark applications, including, without limitation, the trademarks, trademark registrations, trade names and trademark applications, service marks, service mark registrations, service names and service mark applications listed on Schedule B, attached hereto and made a part thereof, and (a) renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable with respect thereto, including, without limitation, damages and payment for past or future infringements thereof, (c) the right to sue for past, present and future infringements thereof, and (d) all rights corresponding thereto throughout the world (all of the foregoing trademarks, service marks, trademark and service mark registrations, trade names, service names and applications, together with the items described in clauses (a)-(d), are sometimes hereinafter individually and/or collectively referred to as the "Trademarks,"); and

(ii) the goodwill of Assignor's business including but not by way of limitation such goodwill connected with and symbolized by the Trademarks.

4. Restrictions on Future Assignments. Assignor agrees that until the Obligations shall have been satisfied in full and the Financing Agreement shall have been terminated, Assignor will not, without Assignee's prior written consent, enter into any agreement relating to the Patents, Trademarks or Licenses (for example, a license agreement) and Assignor further agrees that it will not take any action, or permit any action to be taken by others subject to its control, including licensees, or fail to take any action which would affect the validity or enforcement of the rights transferred to Assignee under this Assignment.

5. New Patents, Trademarks, and Licenses. Assignor represents and warrants that the Patents, Trademarks and Licenses listed on Schedules A, B and C, respectively, constitute all of the patents, service marks, trademarks, applications and licenses now owned by Assignor. If, before the Obligations shall have been satisfied in full, Assignor shall (i) obtain rights to any new patentable inventions, trademarks, trademark registrations, trade names, service marks, service mark registrations, service names, or licenses, or (ii) become

entitled to the benefit of any patent, service mark or trademark application, service mark, service mark registration, trademark, trademark registration, or license renewal, or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Patent or any improvement on any Patent, the provisions of this Assignment shall automatically apply thereto and Assignor shall give to Assignee prompt written notice thereof. Assignor hereby authorizes Assignee as attorney in fact to modify this Assignment by amending Schedules A, B and/or C, as applicable, to include any future patents, patent applications, service marks, service mark registrations, service mark applications, service names, trademarks, trademark registrations, trademark applications, trade names and licenses which are Patents, Trademarks or Licenses, as applicable, under Paragraphs 2 and 3 above or under this Paragraph 5, and to file or refile this Assignment with the United States Patent and Trademark Office.

6. Representations and Warranties. Assignor represents and warrants to and agrees with Assignee that:

(i) The Patents and Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;

(ii) To the best knowledge of Assignor, each of the Patents and Trademarks is valid and enforceable;

(iii) Assignor is the owner of the Patents and Trademarks and has the power and authority to make, and will continue to have authority to perform, this Assignment according to its terms;

(iv) To the best knowledge of Assignor, this Assignment does not violate and is not in contravention of any other agreement to which Assignor is a party or any judgment or decree by which Assignor is bound and does not require any consent under any other agreement to which Assignor is a party or by which Assignor is bound;

(v) There has been no prior sale, pledge, encumbrance, assignment or other transfer or disposition of any of the Patents, Trademarks or Licenses or any part thereof and the same are free from all liens, charges and encumbrances of any kind, including but not limited to licenses, shop rights and covenants not to sue third persons, other than Permitted Liens (as defined in the Financing Agreement); and

(vi) To the best knowledge of Assignor, the Licenses, if any, are valid and binding agreements enforceable according to their terms. Each of such Licenses is in full force and effect and has not been amended or abrogated and to the best knowledge of Assignor there is no default under any of the Licenses.

7. Royalties; Terms. Assignor hereby agrees that the use by Assignee of all Patents, Trademarks and Licenses as described above shall be worldwide and without any liability for

royalties or other related charges from Assignee to the Assignor. The term of the assignments granted herein shall extend until the earlier of (i) the expiration of each of the respective Patents, Trademarks and Licenses assigned hereunder, or (ii) the Obligations have been paid in full and the Financing Agreement has been terminated.

8. Grant of License to Assignor. Unless and until an "Event of Default" (as defined in the Financing Agreement) shall have occurred, Assignee hereby grants to Assignor a nontransferable right and license to use the Trademarks, to exercise Assignee's rights under the Licenses, and to make, have made, use and sell the inventions disclosed and claimed in the Patents for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this Paragraph 8, without the prior written consent of Assignee. From and after the occurrence of an Event of Default, Assignor's license with respect to Patents, Trademarks and Licenses as set forth in this Paragraph 8 shall terminate forthwith, and Assignee shall have, in addition to all other rights and remedies given it by this Assignment, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Patents, Trademarks or Licenses may be located, including, but not by way of limitation, the location of Assignee's headquarters.

9. Reassignment to Assignor. Upon payment in full of the obligations and termination of the Financing Agreement, Assignee shall execute and deliver to Assignor all assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Patents, Trademarks and Licenses, subject to any disposition thereof which may have been made by Assignee pursuant hereto or pursuant to the Financing Agreement.

10. Duties of Assignor. Assignor shall have the duty to (i) prosecute diligently any patent application of the Patents made by it and any trademark or service mark application of the Trademarks made by it pending as of the date hereof or thereafter until the Obligations shall have been paid in full. (ii) make application on unpatented but patentable inventions and on trademarks and service marks, as appropriate, and (iii) preserve and maintain all of its rights in patent applications and patents of the Patents and in trademark applications, trademarks, trademark registrations, service mark applications, service marks, and service mark registrations of the Trademarks. Any expenses incurred in connection with such applications shall be borne by Assignor. Assignor shall not abandon any right to file a Patent application or Trademark application, or any pending Patent application, Trademark application, Patent, nor Trademark without the consent of Assignee.

11. Financing Statements; Documents. At the request of Assignee, Assignor will join with Assignee in executing one or more financing statements pursuant to the Ohio version of the Uniform Commercial Code in form satisfactory to Assignee and will pay the costs of filing and/or recording this Assignment and all financing, continuation and termination statements in all public offices where filing or recording is deemed necessary or desirable by Assignee. Assignor will execute and deliver to Assignee from time to time such supplemental

assignments or other instruments, including, but not by way of limitation, additional assignments to be filed with the United States Patent and Trademark office, as Assignee may require for the purpose of confirming Assignee's interest in the Patents, Trademarks and Licenses.

Assignor hereby authorizes the Commissioner of Patents and Trademarks to issue any and all Patents on said inventions and any and all certificates of registration on all Trademarks to Assignee as assignee of Assignor's entire interest

12. Assignee's Right to Sue. Assignee shall have the same rights, if any, as Assignor has, but shall in no way be obligated, to bring suit in its own name to enforce the Licenses and the Patents and Trademarks, and any licenses thereunder, and, if Assignee shall commence any such suit, Assignor shall, at the request of Assignee, do any and all lawful acts and execute any and all proper documents required by Assignee in aid of such enforcement and Assignor shall promptly, upon demand and as a part of the obligations, reimburse and indemnify Assignee for all costs and expenses incurred by Assignee in the exercise of its rights under this Paragraph 12. After first giving Assignee a reasonable opportunity to bring suit in its own name to enforce the Licenses and the Patents and Trademarks, and any licenses thereunder, Assignor may bring such suit in its own name.

13. Waivers. No course of dealing between Assignor and Assignee nor any failure to exercise nor any delay in exercising, on the part of Assignee, any right, power or privilege hereunder or under the Financing Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

14. Severability. The provisions of this Assignment are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction. or any other clause or provision of this Assignment in any jurisdiction.

15. Modification. This Assignment cannot be altered, amended or modified in any way, except as specifically provided in Paragraph 5 hereof or by a writing signed by the parties hereto.

16. Cumulative Remedies; Effect on Financing Agreement. All of Assignee's rights and remedies with respect to the Patents, Trademarks and Licenses, whether established hereby or by the Financing Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently. Assignor acknowledges and agrees that this Assignment is not intended to limit or restrict in any way the rights and remedies of Assignee under the Financing Agreement but rather is intended to facilitate the exercise of such rights and remedies.

17. Binding Effect: Benefits. This Assignment shall be binding upon the Assignor and its respective successors and assigns, and shall inure to the benefit of Assignee, its successors and assigns.

18. Governing Law. This Assignment has been delivered and accepted in Rochester, New York, and shall be governed by and construed in accordance with the local laws of the State of New York.

IN WITNESS WHEREOF, ULTIMATE TECHNOLOGY CORPORATION, by its duly authorized officer, has executed this Assignment as of the 18 day of February, 2000.

ULTIMATE TECHNOLOGY CORPORATION

By: Samuel J. Villante

Its: President

STATE OF NEW YORK)
) SS:
COUNTY OF MONROE)

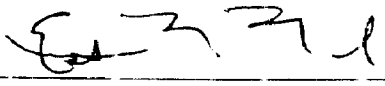
The foregoing Contingent Patent, Trademark and License Assignment was executed and acknowledged before me this 18th day of February, 2000, by Samuel J. Villante, the President of Ultimate Technology Corporation, on behalf of the corporation.

ELIZABETH C. BRICE
Notary Public, State of New York
Qualified in Ontario County
Commission Expires Dec. 11 2001

Elizabeth C. Brice
Notary Public

Accepted at Rochester, New York
as of February 18, 2000.

FIRSTAR BANK, NATIONAL ASSOCIATION

By: 

Title: Vice President

SCHEDULE A
(Patents)

1. Patent Number D371,777
2. Patent Number 5668,358

SCHEDULE B
(Trademarks)

UltimateTechnology, Registered December 10, 1996

“U” and Design, Registered December 17, 1996

SCHEDULE C
(License Agreements)

None