

08-28-2000



101445389

RECORDATION FORM COVER SHEET
TRADEMARKS ONLY

7.26.00

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
Effective Date
Month Day Year
- Merger
- Change of Name
- Other

Conveying Party

Mark if additional names of conveying parties attached

Execution Date
Month Day Year

Name

Formerly

- Individual General Partnership Limited Partnership Corporation Association

Other

Citizenship/State of Incorporation/Organization

Receiving Party

Mark if additional names of receiving parties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City

State/Country

Zip Code

- Individual General Partnership Limited Partnership

- Corporation Association

Other

Citizenship/State of Incorporation/Organization

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.)

08/25/2000 DNGUYEN 00000269 031721 1164654

FOR OFFICE USE ONLY

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Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

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: 002125 FRAME: 0541

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"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

<input type="text" value="1164654"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>

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.

Katrine Benedict MacGregor, Esq,



7/26/00

Name of Person Signing

Signature

Date Signed

THE SECURITIES REPRESENTED HEREBY HAVE BEEN ACQUIRED FOR INVESTMENT AND HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR THE SECURITIES LAWS OF ANY STATE.

SARONIX, LLC

Promissory Note, Pledge and Security Agreement

\$12,000,000

July 14, 2000

SARONIX, LLC, a Delaware limited liability company (the "Company"), for value received, hereby promises to pay to Riverside Fund II, L.P., or its assigns (the "Holder"), on demand, unless paid earlier in accordance with the terms hereof, the principal amount of Twelve Million Dollars (\$12,000,000), or such lesser amount as may then be outstanding hereunder. This Promissory Note and Security Agreement (this "Note") shall bear simple interest (computed on the basis of the actual number of days elapsed over a 360-day year) at the rate of Prime Rate plus 1% per annum, payable on demand, unless paid earlier in accordance with the terms hereof, on the unpaid principal amount hereof from time to time outstanding; provided that the foregoing per annum rate of interest shall increase to Prime Rate plus 4% if any amount owed in respect of this Note is not paid in full to the Holder when due. All payments of principal of and interest on this Note shall be payable in cash at the address of the Holder furnished to the Company.

1. Grant of Security Interest.

(a) The Maker hereby grants to the Holder, to secure the payment and performance in full of all of the Secured Obligations (as defined below), a security interest in, and pledges and assigns to the Holder, all of the tangible and intangible properties, assets, and rights of the Maker, wherever located, whether now owned or hereafter acquired or arising, and all proceeds and products thereof, provided that the Maker is only granting the Holder a security interest in sixty-five (65%) percent of the outstanding capital stock of each of its wholly-owned foreign subsidiaries (all of the same being hereinafter called the "Collateral").

(b) At the request of the Holder, the Maker shall (i) endorse, assign and deliver to the Holder all negotiable or non-negotiable instruments, certificated securities, and chattel paper pledged by it hereunder, together with instruments of transfer or assignment duly executed in blank as the Holder may have specified and (ii) execute such UCC-1 financing statements, assignments and other instruments as may be required by the Holder to perfect the security interests and liens granted hereby.

(c) The security interest hereby granted shall secure the due and punctual payment and performance of all amounts of principal of and interest on this Note, and any amount owed to the Holder under this Note, or otherwise arising out of or relating to this Note or any related or other agreement or instrument relating thereto, all as amended from time to time (all of the same being the "Secured Obligations").

(d) Except for the security interest herein granted and liens existing and disclosed to the Holder on the date hereof, the Maker shall be the owner of, or shall maintain its rights in, the Collateral free from any lien, security interest, or other restriction or other encumbrance, and the Maker shall defend the same against all claims and demands of all persons at any time claiming the same or any interests therein adverse to the Holder.

2. Prepayment; Application of Payments. This Note shall be prepayable, without premium, in whole or in part, at the option of the Company at any time. All payments and prepayments made hereunder shall be applied in the following order: (a) first, to any amounts due hereunder, other than principal and interest, (b) second, to accrued but unpaid interest hereon, and (c) third, to the unpaid principal balance hereof.

3. Representations and Warranties.

(a) **Organization and Good Standing.** The Company is duly formed, validly existing and in good standing as a limited liability company under the laws of the State of Delaware, and has all requisite power and authority to own, operate and lease its properties and to carry on its business as it is now being conducted.

(b) **Authorization.** The Company has full power and authority to enter into this Note and to consummate the transactions contemplated hereby. The execution, delivery and performance of this Note and the consummation of the transactions contemplated hereby have been duly authorized by the Company. No other action or proceeding on the part of the Company or any other person is necessary to authorize the execution, delivery and performance of this Note and the transactions contemplated hereby. This Note has been duly and validly executed and delivered by the Company. This Note constitutes the valid and binding obligation of the Company, enforceable against the Company in accordance with its terms subject to applicable bankruptcy, insolvency, fraudulent conveyance, reorganization, moratorium and similar laws affecting creditors' rights generally and to general principles of equity.

(c) **No Violation.** The execution, delivery and performance by the Company of this Note, the consummation of the transactions by the Company contemplated hereby and the compliance by the Company with any of the provisions hereof will not conflict with, violate or result in a breach of any provision of, require a consent under, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of or accelerate the performance required by, or result in a right of termination or acceleration under, (i) any provision of the limited liability company agreement of the Company or (ii) to the Company's knowledge, (x) with any mortgage, note, indenture, deed of trust, lease, loan agreement, warrant, registration rights agreement or other agreement or instrument binding on the Company or (y) any permit, franchise, license, judgment, order, decree, ruling, injunction, statute, law, ordinance, rule, regulation or administrative position of any governmental entity, self-regulating organization or any other person or entity, in the case of (x) or (y), binding on or otherwise applicable to the Company.

(d) **Consents.** No consent, approval, order or authorization of, or registration, declaration or filing with, any governmental entity or any other person is required in connection with the execution, delivery and performance of this Note by the Company and the consummation of the transactions by the Company hereunder.

(e) **Security.** This Note creates a valid and enforceable lien on the Collateral.

4. **Conversion to Equity.** At any time within the twelve months after the date of this Note, at the Holder's discretion, up to \$6,000,000 of the indebtedness evidenced by this Note may be converted into equity of the Company (either preferred or common units or any combination thereof). In the event of any such conversion, the applicable conversion price shall equal the purchase price for such preferred and/or common units for investors purchasing equity in the Company on or about the date of this Note.

5. **Remedies.** Upon any failure of the Maker to make payment of this Note on demand, the Holder shall have in any jurisdiction in which enforcement hereof is sought, in addition to all other rights and remedies, the rights and remedies of a secured party upon default under the Uniform Commercial Code.

6. **Expenses.** The Company shall reimburse the Holder on demand for all costs and expenses of the Holder, including attorneys fees, arising out of or relating to this Note, including without limitation in respect of the negotiation, execution, delivery, enforcement or collection hereof.

7. **Notices.** Except as otherwise provided herein, all notices to the Company or the Holder shall be in writing and shall be deemed to have been sufficiently given or served for all purposes hereof if personally delivered, or sent by overnight courier, facsimile or e-mail, as follows:

(a) if to the Company:

SaRonix, LLC
141 Jefferson Drive
Menlo Park, CA 94025
Attention: Michael Nusbaum

(b) if to the Holder:

c/o Riverside Partners, Inc.
One Exeter Plaza
Boston, MA 02116

or at such other address as the party to whom such notice or demand is directed may have designated in writing to the other party hereto.

8. **Waivers.** The Company hereby waives presentment, demand, notice, protest and all other demands and notices in connection with the delivery, acceptance, performance or enforcement of this Note.

9. **Choice of Law.** This Note is governed by the internal laws of the Commonwealth of Massachusetts.

10. **Waivers and Amendments, Etc.** The provisions of this Note may be waived or amended only by a written instrument signed by the Company and the Holder. No course of dealing and no delay on the part of the holder hereof in exercising any right shall operate as a waiver thereof or otherwise prejudice the rights of the holder hereof. No right conferred hereby upon the holder hereof shall be exclusive of any other right referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise.

11. **Power of Attorney.** The Maker hereby irrevocably constitutes and appoints the Holder and any officer or agent thereof, with full power of substitution, as its true and lawful attorneys-in-fact with full irrevocable power and authority in the place and stead of the Maker or in the Holder's own name, for the purpose of carrying out the terms of this Agreement, to take any and all appropriate action and to execute any and all documents and instruments that may be necessary or desirable to accomplish the purposes of this Agreement, said appointment being deemed to be coupled with an interest.

IN WITNESS WHEREOF, the undersigned has caused this Note to be executed as a sealed instrument as of the date first above written.

SARONIX, LLC

By: Michael A. Strauss
Manager

Schedule A

Trademarks:

<u>Mark</u>	<u>Registration No.</u>	<u>Registration Date</u>
NYMPH	1,164,654	8/11/81

3148105

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Registrant: SaRonix, LLC
Mailing Date: July 26, 2000

Commissioner of Patents and Trademarks
Box Assignments
Washington D.C. 20231

Sir:

TRANSMITTAL LETTER

Would you kindly record the attached copy of the Promissory Note, Pledge and Security Agreement dated July 14, 2000 by which the Registrant, SaRonix, LLC, granted a security interest in all of its right, title and interest in and to the trademarks, unregistered tradmemarks and trade names listed on Schedule A attached hereto to Riverside Fund II, L.P.

A Declaration Under 37 C.F.R. 2.20 is also enclosed which verifies that the copy of the document to be recorded is a true and accurate copy of the original.

Please charge the recording fee and any additional fees required to our Deposit Account No. 03-1721. A duplicate copy of this letter is enclosed for the convenience of the U.S. Patent and Trademark Office.

The undersigned attorney encourages the Assignment Branch to call her if there are any problems or questions with respect to the recordation of the attached document.

Respectfully submitted,



Katrine Benedict MacGregor, Esq.
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, Massachusetts 02109
Tel: (617) 248-5000

"Express Mail" mailing label number

EK570875146US

Date of Deposit 7-26-00

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to the Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231.

3148105

TRADEMARK
REEL: 002125 FRAME: 0550

Schedule A

Trademarks :

Mark

Registration No.

Registration Date

NYMPH

1,164,654

8/11/81

3148105