07-1	l8-2001
Form PTO-1594 RE((Rev. 03/01) The property of	U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office
Tab settings	781529 ▼
1. Name of conveying party(ies):	2. Name and address of receiving party(ies)
Notara, Inc. 7-12-71	Name: Silicon Valley Bank Internal Address:
Individual(s)	Street Address: 3003 Tasman Drive
General Partnership Limited Partnership	
Corporation-State DE	City: Santa Clara State: CA Zip: 95054
Q Other	Individual(s) citizenship
Additional comp(s) of convenient contributes attached 2 They on the No.	Association
Additional name(s) of conveying party(ies) attached? 🎴 Yes 🛂 No	General Partnership
3. Nature of conveyance:	Limited Partnership
Assignment 📮 Merger	Corporation-State
Security Agreement	OtherCA-Chartered Bank
Cother	If assignee is not domiciled in the United States, a domestic representative designation is attached:
Application number(s) or registration number(s):	
	B. Trademark Registration No.(s)
A. Trademark Application No.(s) 76/252,086	b. Trademark Registration No.(s)
76/240,259	
Additional number(s) att	
Name and address of party to whom correspondence concerning document should be mailed:	6. Total number of applications and registrations involved:
Name: Christopher E. Kondracki	
Internal Address:	7. Total fee (37 CFR 3.41)
	Enclosed
	Authorized to be charged to deposit account
Street Address: 2001 Jefferson Davis, Hwy.,	8. Deposit account number:
City: Arlington State: VA Zip: 22202	(Attach duplicate copy of this page if paying by deposit account)
DO NOT USE	THIS SPACE
Statement and signature. To the best of my knowledge and belief, the foregoing inform copy of the original document.	nation is true and correct and any attached copy is a true
Christopher E. Kondracki	tal 7/12/01
Name of Person Signing Signature Date Total number of pages including cover sheet, attachments, and document:	
DE DBYRNE 00000067 76252086 Mail documents to be recorded with	required cover sheet information to:
Commissioner of Patent & Ti 40.00 CP Washington, 25.00 CP	rademarks, Box Assignments
	

TRADEMARK REEL: 002330 FRAME: 0008

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (this "IP Agreement") is made as of the 28 day of June, 2001 by and between NOTARA, INC.. a Delaware corporation with its principal place of business at 257 Park Avenue South, New York, New York 10010 ("Grantor"), and SILICON VALLEY BANK, a California-chartered bank, with its principal place of business at 3003 Tasman Drive, Santa Clara, California 95054 and with a loan production office located at One Newton Executive Park, Suite 200, 2221 Washington Street, Newton, Massachusetts 02462, doing business under the name "Silicon Valley East" ("Lender").

RECITALS

- A. Lender has agreed to make advances of money and to extend certain financial accommodations to Grantor (the "Loan"), pursuant to a certain Loan and Security Agreement dated as of August 13, 1999 between HURRICANE TECHNOLOGY PARTNERS, now known as Grantor, and Lender, as amended from time to time (as may be amended, the "Loan Agreement"). The Loan is secured pursuant to the terms of the Loan Agreement. Lender is willing to enter into certain financial accommodations with Grantor, but only upon the condition, among others, that Grantor shall grant to Lender a security interest in certain Copyrights, Trademarks, Patents, and Mask Works, and other assets, to secure the obligations of Grantor under the Loan Agreement. Defined terms used but not defined herein shall have the same meanings as in the Loan Agreement.
- B. Pursuant to the terms of the Loan Agreement, Grantor has granted to Lender a security interest in all of Grantor's right title and interest, whether presently existing or hereafter acquired in, to and under all of the Collateral (as defined therein).
- NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged and intending to be legally bound, as collateral security for the prompt and complete payment when due of Grantor's indebtedness (as defined below), Grantor hereby represents, warrants, covenants and agrees as follows:
- 1. Grant of Security Interest. As collateral security for the prompt and complete payment and performance of all of Grantor's present or funire indebtedness, obligations and liabilities to Lender (hereinafter, the "Indebtedness"), including, without limitation, under the Loan Agreement, Grantor hereby grants a security interest in all of Grantor's right, title and interest in, to and under its registered and unregistered intellectual property collateral (all of which shall collectively be called the "Intellectual Property Collateral"), including, without limitation, the following:
 - (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 Grantor 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 **EXPIRIT B** attached hereto (collectively, the "Patents");

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unreasonably withheld, unless Grantor determines that reasonable business practices suggest that abandonment is appropriate.

- (g) Grantor shall promptly register the most recent version of any of Grantor's material Copyrights, if not so already registered, and shall, from time to time, execute and file such other instruments, and take such further sections as Lender may reasonably request from time to time to perfect or continue the perfection of Lender's interest in the Intellectual Property Collateral;
- (h) This IP Agreement creates, and in the case of after acquired intellectual Property Collateral, this IP Agreement will create at the time Gramor first has rights in such after acquired Intellectual Property Collateral, in favor of Lender a valid and perfected first priority security interest and collateral assignment in the Intellectual Property Collateral in the United States securing the payment and performance of the obligations evidenced by the Loan Agreement upon making the fillings 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 and Mask Works necessary to perfect the accurity interests 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 or U.S. regulatory body is required either (i) for the grant by Grantor of the security interest granted hereby, or for the execution, delivery or performance of this IP Agreement by Grantor in the U.S. or (ii) for the perfection in the United States or the exercise by Lender of its rights and remedies thereunder;
- (j) All information heretofore, herein or hereafter supplied to Lender by or on behalf of Grantor with respect to the Intellectual Property Collateral is accurate and complete in all material respects.
- (k) Grantor shall not enter into any agreement that would materially impair or conflict with Grantor's obligations hereunder without Lender's prior written consent, which consent shall not be unreasonably withheld. Grantor 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 Grantor's rights and interest in any property included within the definition of the Intellectual property Collateral acquired under such contracts.
- (l) Upon any executive officer of Grantor obtaining actual knowledge thereof, Grantor will promptly notify Lender in writing of any event that materially adversely affects the value of any material intellectual Property Collateral, the ability of Grantor to dispose of any material Intellectual Property Collateral of the rights and remedies of Lender in relation thereto, including the levy of any legal process against any of the Intellectual Property Collateral.
- 4. <u>Lender's Rights.</u> Lender shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required under this IP Agreement to take but which Grantor fails to take, after fifteen (15) days' notice to Grantor. Grantor shall reimburse and indemnify Lender for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this section 4.
- 5. Inspection Rights. Grantor hereby grams to Lender and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable written notice to Grantor, any of Grantor's plants and facilities that manufacture, install or store products (or that have done so thiring the prior six-month period) that are sold utilizing any of the Intellectual Property Collateral, and to inspect the products and quality control records relating thereto upon reasonable written notice to Grantor and as often as may be reasonably requested, but not more than once in every six (6) months; provided, however, nothing herein shall entitle Lender access to Grantor's trade secrets and other proprietary information.

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6. Further Assurances: Anomey in Fact.

- (a) On a continuing basis, Grantor 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 Lender, to perfect Lender's security interest in all Copyrights, Patenta, Trademarks, and Mask Works and otherwise to carry out the intent and purposes of this IP Agreement, or for assuring and confirming to Lender the grant or perfection of a security interest in all Intellectual Property Collateral.
- (b) Grantor hereby irrevocably appoints Lender as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, Lender or otherwise, from time to time in Lender's discretion, upon Grantor's failure or inability to do so, to take any action and to execute any instrument which Lender may deem necessary or advisable to accomplish the purposes of this IP Agreement, including:
 - (i) To modify, in its sole discretion, this IP Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A. Exhibit B. Exhibit C, and Exhibit D hereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents, Trademarks or Mask Works acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents, Trademarks, or Mask Works in which Grantor 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 Intellectual Property Collateral without the signature of Grantor where permitted by law.
- 7. Events of Default. The occurrence of any of the following shall constitute an Event of Default under this IP Agreement:
 - (a) An Event of Default occurs under the Loan Agreement; or any document from Grantor to Leader: or
 - (b) Grantor breaches any warranty or agreement made by Grantor in this IP Agreement.
- Remedies. Upon the occurrence and continuance of an Event of Default, Lender shall have the right to exercise all the remedies of a secured party under the Massachusetts Uniform Commercial Code, including without limitation the right to require Grantor to assemble the Intellectual Property Collateral and any tangible property in which Lender has a security interest and to make it available to Lender at a place designated by Lender. Lender shall have a nonexclusive, royalty free license to use the Copyrights, Patents, Trademarks, and Mask Works to the extent reasonably necessary to permit Lender to exercise its rights and remedies upon the occurrence of an Event of Default. Grantor will pay any expenses (including reasonable automey's fees) incurred by Lender in connection with the exercise of any of Lender's rights hereunder, including without limitation any expense incurred in disposing of the Intellectual Property Collateral, All of Lender's rights and remedies with respect to the Intellectual Property Collateral shall be cumulative.
- 9. Indemnity. Grantor agrees to defend, indemnify and hold harmless Lender 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 IP Agreement, and (b) all losses or expenses in any way suffered, incurred, or paid by Lender as a result of or in any way arising out of, following or consequential to transactions between Lender and Grantor, whether under this IP Agreement or otherwise (including without limitation, reasonable autorneys fees and reasonable expenses), except for losses arising from or out of Lender's gross negligence or willful misconduct.

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- 10. <u>Reassignment.</u> At such time as Grantor shall completely sarisfy all of the obligations secured hereunder, Lender shall execute and deliver to Grantor all deeds, assignments, and other instruments as may be necessary or proper to reinvest in Grantor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Lender pursuant hereto.
- 11. <u>Course of Dealing.</u> 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. <u>Amendments.</u> This IP Agreement may be amended only by a written instrument signed by both parties hereto.
- 13. <u>Counterparts.</u> This IP Agreement 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.
- Law and Jurisdiction. This IP Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachuseus. GRANTOR ACCEPTS FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, UNCONDITIONALLY, THE NON-EXCLUSIVE JURISDICTION OF ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE COMMONWEALTH OF MASSACHUSETTS IN ANY ACTION, SUIT, OR PROCEEDING OF ANY KIND, AGAINST IT WHICH ARISES OUT OF OR BY REASON OF THIS AGREEMENT; PROVIDED, HOWEVER, THAT IF FOR ANY REASON LENDER CANNOT AVAIL ITSELF OF THE COURTS OF THE COMMONWEALTH OF MASSACHUSETTS, GRANTOR ACCEPTS JURISDICTION OF THE COURTS AND VENUE IN SANTA CLARA COUNTY, CALIFORNIA.

GRANTOR AND LENDER EACH HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH PARTY RECOGNIZES AND AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT. EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

Confidentiality. In handling any confidential information, Lender shall exercise the same degree of care that it exercises for its own proprietary information, but disclosure of information may be made: (i) to Lender's subsidiaries or affiliates in connection with their present or prospective business relations with Grantor; (ii) to prospective transferees or purchasers of any interest in the Luans; (iii) as required by law, regulation, subpoena, or other order, (iv) as required in connection with Lender's examination or audit; and (v) as Lender considers appropriate in exercising remedies under this Agreement. Confidential information does not include information that either: (a) is in the public domain or in Lender's possession when disclosed to Lender, or becomes part of the public domain after disclosure to Lender; or (b) is disclosed to Lender by a third party, if Lender reasonably does not know that the third party is prohibited from disclosing the information.

EXECUTED as a sealed instrument under the laws of the Commonwealth of Massachusetts on the day and year

first written above.	
Address of Grantor:	GRANTOR:
257 Park Avenue South	NOTARA, INC.
New York, New York 10010	By: Surlaulle
	Name: Richard Giordanella
	Title: CEO
	SILICON VALLEY BANK
	By:
	Name:

56120/323

651003.2

Title:

06/12/01 17:48 FAX 6178803456

EXECUTED as a sealed instrument under the laws of the Commonwealth of Massachusetts on the day and y. first written above.

Address of Grantor:

GRANTOR:

257 Park Avenue South

New York, New York 10010

NOTARA, INC

By: Joy Cull

Title: CEO

SILICON VALLEY BANK

Male

Name: Mark Pas

Tide: 500

56120/323

651003.2

P. 03

06/12/01 17:48 FAX 6178803458

Riemer & Braunstein LLP

₩ 007/016

EXECUTED as a scaled instrument under the laws of the Commonwealth of Massachusens on the day and year first written above.

Address of Grantor:

257 Park Avenue South

New York, New York 10010

GRANTOR:

NOTARA, I

Richard Giordanelle

Title: CEO

STUCON VALLEY BANK

Make

Name: MARK PASCUCANO

5. V- P.

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651003.2

.F.,

Exhibit "A" attached to that certain Intellectual Property Security Agreement dated 28 June 2001

EXHIBIT "A"

COPYRIGHTS

SCHEDULE A - ISSUED COPYRIGHTS

COPYRIGHT DESCRIPTION REGISTRATION NUMBER

DATE OF ISSUANCE

SCHEDULE B - PENDING COPYRIGHT APPLICATIONS

COPYRIGHT DESCRIPTION APPLICATION NUMBER

DATE OF FILING

DATE OF CREATION **FIRST DATE** OF PUBLIC DISTRIBUTION

SCHEDULE C - UNREGISTERED COPYRIGHTS (Where No Copyright Application is Pending)

DATE AND RECORDATION NUMBER OF IP AGREEMENT WITH OWNER OR ORIGINAL

GRANTOR IF AUTHOR OR OWNER OF OWNER OF

ORIGINAL AUTHOR

OF COPYRIGHT COPYRIGHT IS

FIRST DATE

COPYRIGHT DATE OF DESCRIPTION CREATION OF

DISTRIBUTION

IS DIFFERENT FROM GRANTOR DIFFERENT ROM GRANTOR

-7-

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Exhibit "B" attached to that certain Intellectual Property Security Agreement dated 28 June, 2001.

EXHIBIT "B"

PATENTS

PATENT

DESCRIPTION DOCKET NO. COUNTRY

SERIAL NO.

FILING DATE STATUS

SCHEDULE B - PENDING PATENT APPLICATIONS

PATENT

APPLICATION

APPLICATION

APPLICATION

NUMBER

DATE

Brand Resource Management System

09/727,121

November 30, 2000

Exhibit "C" attached to that certain Intellectual Property Security Agreement dated 28 June, 2001.

EXHIBIT "C"

DOMESTIC TRADEMARK APPLICATIONS

TRADEMARK

APPLICATION APPLICATION NO.

APPLICATION DATE

NOTARA w/logo

76/252086

May 4, 2001

SIMPLIFYING THE WORK OF MARKETING

76/240259

April 13, 2001

FOREIGN TRADEMARKS

TRADEMARKS (ABROAD)

REGISTRATION #

REGISTRATION DATE

APPLICATION DATE

NOTARA (Australia) NOTARA (S. Korea) 834255 487818 February 2, 2001 February 15, 2001

NOTARA (New Zealand)

614072

November 9, 2000

FOREIGN TRADEMARK APPLICATIONS

TRADEMARK APPLICATIONS (ABROAD) APPLICATION #

NOTARA (Canada)

1058209

1644095

May 5, 2000 May 5, 2000

NOTARA (European Comm.)
NOTARA (Japan)

2000-051456

May 11, 2000

NOTARA (Thailand)

419123

May 11, 2000

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Exhibit "D" attached to that certain Intellectual Property Security Agreement dated 28 June 2001.

EXHIBIT "D"

MASK WORKS

MASK WORK

DESCRIPTION COUNTRY

SERIAL NO.

REG. NO

STATUS

Exhibit "E" attached to that certain Intellectual Property Security Agreement dated 28 June, 2001.

EXHIBIT "E"

LICENSES

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