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Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002) Tab settings

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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

1. Name of conveying party(ies):

Premier Laser Systems, INC - 1 2001

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: July 31, 2001

2. Name and address of receiving party(ies)

Name: New Eyesys Acquisition Company

Internal Address:

Street Address: 6750 W. Loop South, Suite 500

City: Bellaire State: Texas Zip: 77401

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

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

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

A. Trademark Application No.(s) 75/751,588

B. Trademark Registration No.(s) 1,789,249; 1,978,652; 1,788,833; 2,136,132

Additional number(s) attached Yes No

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

Name: John W. Montgomery

Internal Address: Haynes and Boone, LLP

Street Address: 1000 Louisiana Suite 4300

City: Houston State: TX Zip: 77002

6. Total number of applications and registrations involved: 5

7. Total fee (37 CFR 3.41): \$ 140.00

- Enclosed ck #: 511724 Authorized to be charged to deposit account for any deficiency

8. Deposit account number:

08-1394

(Attach duplicate copy of this page if paying by deposit account)

DO NOT USE THIS SPACE

9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

John W. Montgomery Name of Person Signing

Signature

9/19/01 Date

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

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

10/10/2001 LMUELLER 00000152 75751588

01 FC:481 40.00 DP 02 FC:482 100.00 DP

DOCKET NO.: 31067.

TRADEMARK REEL: 002381 FRAME: 0088

**Schedule A  
(Trademarks)**

Case Number	Trademark Name	Class	Country	Status	Application Number	Filing Date	Reg. Number	Reg. Date	Renewal Date
EYESYS.011T	Tomorrow's Vision Today	10	US	Registered	74/259581	3/27/92	1788833	8/17/93	8/17/03
EYESYS.015T	EyeSys	10	US	Registered	74/267366	4/20/92	1789249	8/24/93	8/24/03
EYESYS.019T	Eyescan (Record owner is EyeSys Technologies, Inc.)	10	US	Registered	74/400129	6/9/93	1978432	6/4/96	6/4/06
EYESYS.022T	Pro-Fit	6	US	Registered	74/732313	9/21/95	2136132	2/10/98	2/10/08
PREMIER.150T	Miscellaneous Eye Design	10	US	Allowed	75/751588	7/15/99			

Rights in the domain name [www.eyesys.com](http://www.eyesys.com).

**(Unregistered Trademarks)**

1. CAS<sup>3</sup>
2. Corneal Analysis
3. EyeSys Premier
4. EyeSys Technologies
5. EyeSys Laboratories
6. Zero-Wait Screen Printer Card
7. EyeSys Software
8. EyeSys Design



**EyeSys**  
ESTABLISHED

## TRADEMARK ASSIGNMENT

THIS TRADEMARK ASSIGNMENT (this "Assignment") is made as of the 31<sup>st</sup> day of July, 2001 between PREMIER LASER SYSTEMS, INC., a California corporation, and EYESYS-PREMIER, INC., a Delaware corporation (collectively, "Sellers"), on the one hand, and NEW EYESYS ACQUISITION COMPANY, a Texas corporation ("Buyer"), on the other hand.

### RECITALS

- A. Sellers own certain trademarks and trademark applications, defined below as the Assigned Trademarks.
- B. Buyer desires to obtain an assignment of the Assigned Trademarks.
- C. Sellers and Tracey Technologies, LLC ("Tracey") have entered into the Purchase Agreement (defined below).
- D. Tracey assigned all of its rights and interests under the Purchase Agreement to Buyer pursuant to an Assignment and Assumption Agreement dated June 29, 2001.
- E. Buyer and Sellers entered into a Security Agreement (defined below) regarding the Assigned Trademarks.

NOW, THEREFORE, in consideration of the premises, mutual promises, and covenants contained herein, the parties agree as follows:

### I. DEFINITIONS

For purposes of this Assignment, the following terms shall have the meanings set forth below:

- A. "Purchase Agreement" shall mean that certain Asset Sale Agreement between Sellers and Tracey dated June 5, 2001.
- B. "Purchase Note" shall mean the Purchase Note referenced in the Purchase Agreement.
- C. "Security Agreement" shall mean that certain Security Agreement between Sellers and Buyer dated July 31, 2001, referenced in the Purchase Agreement.
- D. "Assigned Trademarks" shall mean all trade names, trademarks, and slogans used by the Sellers in the Eyesys Product Lines and all variants thereof, including, but not limited to, the name Eyesys and all derivations thereof, and those trademarks and trademark applications listed in Schedule A attached hereto and made a part hereof.

### II. ASSIGNMENT

- A. Sellers hereby sell, assign, and transfer free and clear of any liens, claims, encumbrances, and security interests unto Buyer, its successors, legal representatives, and

assigns all rights, title, and interest (including all rights acquired pursuant to a license or otherwise) in and to all Assigned Trademarks, and all goodwill of the business associated with the Assigned Trademarks.

B. Sellers do hereby sell, assign, and transfer free and clear of any liens, claims, encumbrances, and security interests unto Buyer, its successors, legal representatives, and assigns all claims for damages and all remedies or causes of action arising out of any violation or infringement of the rights assigned hereby that may have accrued prior to the date of assignment to Buyer, or that may accrue hereafter.

### **III. NO WARRANTIES**

A. Nothing in this Assignment shall be construed as a warranty or representation that anything made, used, sold, or otherwise disposed of under any Assigned Trademark granted in this Assignment is or will be free from infringement of third parties; provided, however, the representation and warranties of Sellers set forth in the Purchase Agreement are hereby incorporated by reference for all purposes.

### **IV. GENERAL PROVISIONS**

A. The parties hereby agree that this Assignment merely constitutes a trademark assignment agreement, and that no agency, joint venture, or partnership is created thereby, and that neither party shall incur obligations in the name of the other party without said other party's prior written consent.

B. Any notice, request, demand, statement, or other writing required or permitted by this Assignment shall be deemed sufficiently given to or made upon the parties hereto when personally received, delivered by first class certified or registered mail, postage prepaid, or delivered by overnight express courier to the addresses set forth on the first page of this Assignment or such other address of which the parties receive written notice.

C. No failure or delay on the part of either party hereto in insisting upon or enforcing or resorting to any of its powers, rights, remedies, or options hereunder, and no partial or single exercise thereof, shall constitute a waiver of any such powers, rights, remedies, or options, unless such waiver be in writing, signed by the party to be charged.

D. If any provision of this Assignment should be held to be void or unenforceable, in whole or in part, the court or tribunal so holding shall reform the provision to make it enforceable while maintaining the spirit and goal of the provision, and if the court or tribunal finds it cannot so reform that provision, such provision or part thereof shall be treated as severable, leaving valid the remainder of this Assignment.

E. This Assignment, together with the Purchase Agreement and the Security Agreement, constitutes the entire understanding and agreement of the parties as to the subject matter herein, and there are no representations, warranties, promises, or undertakings other than those contained herein or therein. As to the subject matter hereof, this Assignment, together with the Purchase Agreement and the Security Agreement, supersedes all previous agreements between the parties hereto. No course of conduct or dealing between the parties shall act as a modification or waiver of any provision of this Assignment, and no waiver or modification of any of the terms or provisions of this Assignment shall be valid, unless contained in a written document signed by both parties.

F. Notwithstanding anything in this Assignment to the contrary, in addition to the intellectual property transferred by Sellers pursuant to the terms hereof, the Sellers acknowledge and agree that certain other intellectual property of the Sellers are being transferred to the Buyer pursuant to the terms of a Patent Assignment, Assignment of Licenses, and a Bill of Sale, which other intellectual property is more fully described in the Purchase Agreement.

G. This Assignment shall be binding upon the parties hereto and their respective subsidiaries, affiliates, heirs, legal representatives, successors, and assigns.

H. The headings in this Assignment are intended for convenience only and shall not be used to interpret the meaning of this Assignment or to determine the rights of the parties.

I. Each party shall perform any further acts and sign and deliver any further documents that are reasonably necessary to effectuate the provisions of the spirit of this Assignment.

[Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this instrument to be executed, effective as of the day and year first above written.

**NEW EYESYS ACQUISITION COMPANY, a**  
Texas corporation.

By: Joe S. Wakil M.D.  
Name: Dr. Joe Wakil  
Title: President

**PREMIER LASER SYSTEMS, INC., a**  
California corporation.

By: \_\_\_\_\_  
Name: Robert Mosier  
Title: Chief Executive Officer

**EYESYS-PREMIER, INC., a Delaware**  
corporation.

By: \_\_\_\_\_  
Name: Robert Mosier  
Title: Chief Executive Officer

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } ss.

On July 9, 2001, before me Evelyn Brodbeck, personally appeared ROBERT MOSIER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same in her authorized capacity and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

\_\_\_\_\_  
Notary Signature

IN WITNESS WHEREOF, the parties have caused this instrument to be executed, effective as of the day and year first above written.

**NEW EYESYS ACQUISITION COMPANY**, a Texas corporation.

By: \_\_\_\_\_  
Name: Dr. Joe Wakil  
Title: President

**PREMIER LASER SYSTEMS, INC.**, a California corporation.

By: \_\_\_\_\_  
Name: Robert Mosier  
Title: Chief Executive Officer

**EYESYS-PREMIER, INC.**, a Delaware corporation.

By: \_\_\_\_\_  
Name: Robert Mosier  
Title: Chief Executive Officer

STATE OF CALIFORNIA }  
COUNTY OF ORANGE } ss.

On July 18, 2001, before me, Aurora Bloom, personally appeared ROBERT MOSIER personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

\_\_\_\_\_  
*Aurora Bloom*  
Notary Signature

