

01-29-2002



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



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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):

EPHYSICIAN, INC.

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other 1st Amendment to Security Agr.

Execution Date: January 2, 2002

2. Name and address of receiving party(ies)

Name: COMDISCO, INC.

Internal

Address:

Street Address: 6111 North River Road

City: Rosemont State: IL Zip: 60018

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

TRADEMARK OFFICE RECEIVED JAN 17 9:13

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

A. Trademark Application No.(s)

76/022,690 76/222,697 75/541,339 76/012,395 76/020,153 75/541,338 75/892,654 75/568,351 75/589,909

Additional number(s) attached Yes No

B. Trademark Registration No.(s)

01-17-2002

U.S. Patent & TMO/TM Mail Rcpt. Dt. #40

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

Name: Murphy Sheneman Julian & Rogers

Internal Address: Bryan Snyder, Paralegal

Street Address: 2049 Century Park East Suite 2100

City: Los Angeles State: CA Zip: 90067

6. Total number of applications and registrations involved: 9

7. Total fee (37 CFR 3.41): \$240.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number: 20-0052

(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.

Christine E Wilson Bryan Snyder, Paralegal Name of Person Signing

Signature

January 14, 2002 Date

8

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

01/28/2002 6TOM11 00000192 200052 76022690

01 FC:481 40.00 CH 02 FC:482 200.00 CH

TRADEMARK REEL: 002432 FRAME: 0374

1.17.02

## FIRST AMENDMENT TO COLLATERAL GRANT OF SECURITY INTEREST OF PATENTS AND TRADEMARKS

THIS FIRST AMENDMENT TO COLLATERAL ASSIGNMENT OF PATENTS AND TRADEMARKS ("Amendment"), is made as of January 2, 2002, by and between EPHYSICIAN, INC., a Delaware corporation (the "Grantor"), and COMDISCO, INC., a Delaware corporation (the "Grantee").

### RECITALS

A. Grantor and Grantee are parties to that certain Subordinated Loan and Security Agreement, dated as of February 14, 2000, as amended by that certain Forbearance Agreement and Amendment to Subordinated Loan Agreement, Equipment Loan Agreement and Lease dated as of January 2, 2002 (as the same may hereafter be amended from time to time, collectively, the "Loan Agreement"), pursuant to which Grantee agreed to provide certain financial accommodations to or for the direct or indirect benefit of Grantor.

B. Grantor executed and delivered to Grantee that certain Collateral Grant of Security Interest of Patents and Trademarks dated as of February 14, 2000 (as the same may from time to time be further amended, modified or supplemented, the "Assignment Agreement"). Pursuant to the Assignment Agreement, among other things, Grantor granted to Grantee, a security interest in its patents and trademarks to secure its obligations to Grantee under the Loan Agreement. All terms capitalized but not defined herein shall have the respective meanings set forth in the Assignment Agreement.

C. Grantor and Grantee are entering into this Amendment in order to reaffirm and continue in effect the Liens granted by Grantor under the Assignment Agreement and, to the extent not granted in the Assignment Agreement, to grant the Liens contemplated by this Amendment.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### AGREEMENT

1. Amendment of Assignment Agreement. The Assignment Agreement is hereby amended as follows:

1.1. Section 1 of the Assignment Agreement is hereby deleted in its entirety and the following is substituted therefor:

(a) Grant of Security Interest in Intellectual Property Collateral. To secure the prompt and complete payment, performance and observance of all of the Grantor's indebtedness to Grantee, Grantor hereby grants to Grantee, a continuing security interest in all of Grantor's now existing or hereafter acquired right, title, and interest in all of the following (all of the following items or types of property being herein collectively referred to as the "Intellectual Property Collateral"), whether now existing or hereafter arising:

(i) all Patents, Patent Licenses, and applications for Patents, including those listed on **Schedule A**, as the same may be amended to include any Patents, Patent Licenses and applications for Patents hereinafter acquired,

and the reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof;

(ii) all Trademarks, Trademark Licenses, and applications for Trademarks, including those listed on **Schedule B** as the same may be amended to include any Trademarks, Trademark Licenses or applications for Trademarks hereafter acquired, and all registrations and renewals thereof; and

(iii) all Proceeds thereof.

1.2. Sections 3 and 5 of the Assignment Agreement are hereby amended by replacing all references to "Patents and Trademarks" with the term "Intellectual Property Collateral."

1.3. Section 4 of the Assignment Agreement is hereby amended by replacing all references to "Patents" with the term "Intellectual Property Collateral."

1.4. Schedule A to the Assignment Agreement is hereby supplemented by Supplement I to Schedule A attached hereto as Appendix 1 and made a part hereof.

1.5. Schedule B to the Assignment Agreement is hereby supplemented by Supplement I to Schedule B attached hereto as Appendix 2 and made a part hereof.

2. Acknowledgment and Confirmation of Security Interest. Grantor hereby confirms and ratifies its prior assignment and grant, and assigns and grants to Grantee, a continuing, first priority security interest in all of such Grantor's right, title and interest in, to and under the Intellectual Property Collateral.

3. Conditions to Effectiveness. This Amendment shall become effective as of the date hereof when Grantee has received executed counterparts of this Amendment.

4. Representations and Warranties. Grantor hereby represents and warrants to Grantee as follows: (a) the representations and warranties contained in the Loan Agreement were true and correct in all material respects when made and, after giving effect to this Amendment, shall remain true and correct in all material respects as of the date hereof (except to the extent that such representation or warranty expressly refers to a specific date); and (b) this Amendment, the Assignment Agreement, as amended hereby, the Loan Agreement, and the other Loan Documents constitute the legal, valid and binding obligations of Grantor, enforceable against Grantor in accordance with their respective terms.

5. Ratification. Except as specifically modified by this Amendment, the parties hereto acknowledge that the Assignment Agreement shall remain binding upon each Grantor and Grantee, and all provisions of the Assignment Agreement shall remain in full force and effect. Grantor expressly ratifies and affirms its obligations to Grantee under the Assignment Agreement, the Loan Agreement and the other Loan Documents. Grantor hereby further acknowledges and affirms that the rights and remedies of Grantee with respect to the security interest in the Intellectual Property Collateral made and granted hereby are more fully set forth in the Loan Agreement, the terms and provisions of which are incorporated by reference herein as if fully set forth herein.

6. Miscellaneous.

6.1. Complete Agreement. The Assignment Agreement, as modified and amended by this Amendment, together with the Loan Agreement and the other Loan Documents, constitute the complete agreement among the parties hereto and thereto, and supersedes any prior written or oral agreements, writings, communications or understandings of the parties hereto and thereto, with respect to the subject matter hereof or thereof.

6.2. Recitals. The recitals to this Amendment shall constitute a part of the agreement of the parties hereto.

6.3. Counterparts. This Amendment may be executed in identical counterpart copies, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of a signature page to this Amendment by facsimile transmission shall be effective as delivery of a manually executed counterpart of this Amendment.

6.4. No Novation. Except as specifically set forth in this Amendment, the execution, delivery and effectiveness of this Amendment shall not (a) limit, impair, constitute a waiver by, or otherwise affect any right, power or remedy of Grantee under the Loan Agreement or any other Loan Document, (b) constitute a waiver of any provision in the Loan Agreement or in any of the other Loan Documents, or (c) alter, modify, amend or in any way affect any of the terms, conditions, obligations, covenants or agreements contained in the Loan Agreement or in any of the other Loan Documents, all of which are ratified and affirmed in all respects and shall continue in full force and effect.

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IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Collateral Grant of Security Interest of Patents and Trademarks to be duly executed and delivered as of the date first written above.

"Grantor"

EPHYSICIAN, INC.

By:  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

"Grantee"

COMDISCO, INC.

By:   
Name: \_\_\_\_\_  
Title: **VICTOR D. HANNA**  
**MANAGING DIRECTOR**  
**COMDISCO VENTURES**

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to the Collateral Grant of Security Interest of Patents and Trademarks to be duly executed and delivered as of the date first written above.

"Grantor"

EPHYSICIAN, INC.

By: Stuart Weisman  
Name: Stuart Weisman  
Title: President and CEO

"Grantee"

COMDISCO, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**APPENDIX 1**

**SCHEDULE A  
TO COLLATERAL ASSIGNMENT OF PATENTS AND TRADEMARKS**

**PATENTS AND PATENT APPLICATIONS**

**PATENTS**

| <u>Patent Name</u> | <u>Status and<br/>Date Issued</u> | <u>Patent Number</u> |
|--------------------|-----------------------------------|----------------------|
|--------------------|-----------------------------------|----------------------|

**PATENT APPLICATIONS**

| <u>Name</u>   | <u>Status &amp; Date Filed</u> | <u>Application Number</u> |
|---|--------------------------------|---------------------------|
| Crush Palm Database<br>Installation   | Pending, 03/20/00              | 60/178,509                |
| Methods for efficient public key<br>based certification<br>infrastructure framework for<br>mobile and desktop<br>environments | Pending, 04/13/00              | 60/197,153                |
| Medical Practice Management<br>Via the Internet   | Pending, 10/21/99              | 09/422,913                |

**APPENDIX 2**

**SCHEDULE B  
TO COLLATERAL ASSIGNMENT OF PATENTS AND TRADEMARKS**

**TRADEMARKS AND TRADEMARK APPLICATIONS**

**TRADEMARKS**

| <u>Name</u> | <u>Registration/Application<br/>Date</u> | <u>Registration/ Serial<br/>Number</u> |
|-------------|--|--|
|-------------|--|--|

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**TRADEMARK APPLICATIONS**

| <u>Name</u>                          | <u>Registration/Application Date</u> | <u>Registration/ Serial<br/>Number</u> |
|--------------------------------------|--------------------------------------|--|
| Ephysician (and design)              | 04/11/00                             | 76/022,690                             |
| Elab                                 | 03/30/00                             | 76/012,395                             |
| Made for physicians by<br>physicians | 01/07/00                             | 75/892,654                             |
| ePhysician Practice                  | 03/09/01                             | 76/222,697                             |
| Practice Medicine                    | 04/07/00                             | 76/020,153                             |
| E*lab                                | 11/23/99                             | 75/568,351                             |
| E*prescription                       | 08/24/98                             | 75/541,339                             |
| E*pad                                | 08/24/98                             | 75/541,338                             |
| ePhysician                           | 11/17/98                             | 75/589,909                             |