

07-26-2002

Atty Dkt No.: EMPIR-031TUS

Form PTO-1594

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

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

102168867

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

1. Name of conveying party(ies):

Teradyne, Inc.

7.22.02

☐ 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: _____

2. Name and address of receiving party(ies)

Name: _____ Empirix Inc.

Internal

Address: _____

Street Address: 1430 Main Street

City: Waltham State: MA Zip: 02451

☐ 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

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

A. Trademark Application No.(s)
76/007,714

B. Trademark Registration No.(s)

Additional number(s) attached ☐ Yes ☒ No

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

Name: Daly, Crowley & Mofford, LLP

Internal Address: _____

Street Address: 275 Turnpike Street, Suite 101

City: Canton State: MA Zip: 02021-2310

6. Total number of applications and registrations involved: _____

1

7. Total fee (37 CFR 3.41) \$ 40.00

☐ Enclosed☐ Authorized to be charged to deposit account

8. Deposit account number:

500845

(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.

Kermit Robinson Reg. No. 48,734
Name of Person Signing

Signature

Date

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

12

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

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TRADEMARK
REEL: 002550 FRAME: 0499

CONTRIBUTION AGREEMENT

AGREEMENT dated as of September 5, 2000 among Teradyne, Inc., a Massachusetts corporation ("Teradyne"), Empirix Inc., a Delaware corporation ("Acquiror"), and the Investors listed on the signature pages hereto (collectively, the "Investors" and, individually, an "Investor").

WITNESSETH:

WHEREAS, Teradyne has determined that it is advisable and in its best interests for Teradyne to effectuate the transactions set forth herein necessary to contribute the Business Assets and Liabilities to Acquiror in exchange for the Transaction Consideration in the manner set forth herein;

WHEREAS, Acquiror is willing to assume the Liabilities and issue the Transaction Consideration in exchange for the Business Assets;

WHEREAS, upon the terms and subject to the conditions set forth herein, Teradyne shall contribute the Business Assets and Liabilities to Acquiror by contributing Teradyne's ownership interest in SFTG LLC, a single member limited liability company that is wholly-owned by Teradyne, to Acquiror;

WHEREAS, the parties hereto intend that the transactions contemplated by this Agreement shall constitute a transaction described in Section 351 of the Internal Revenue Code of 1986, as amended (the "Code");

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and warranties made herein and of the mutual benefits to be derived therefrom, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.01. Definitions. (a) The following terms, as used herein, have the following meanings:

"Acquired Companies" or, individually, an "Acquired Company" means Midnight, TRSW, RSW and Hammer and, solely for the purposes of the representations, warranties and covenants set forth herein, TSST.

"Acquired Company Acquisition Agreements" means the Stock Purchase Agreement by and among Hammer Technologies, Inc., the Stockholders listed therein and Teradyne, Inc. dated

as of July 10, 1995, the Asset Purchase Agreement by and among Teradyne, Inc., Teradyne Midnight Networks, Inc., Midnight Networks, Inc. and the Stockholders listed therein dated as of June 14, 1996 and the Stock Purchase Agreement by and among RSW Software, Inc., the Stockholders listed therein, Teradyne RSW Software, Inc. and Teradyne, Inc. dated as of November 12, 1997.

"Acquired Company Shares" means all of the issued and outstanding capital stock of Midnight, TRSW and Hammer.

"Acquiror's Counsel" means the law firm of Goodwin, Procter & Hoar LLP, Boston, Massachusetts.

"Affiliate" means, with respect to any Person, any Person directly or indirectly controlling, controlled by, or under common control with such Person.

"Balance Sheet" means the unaudited balance sheet of the Business as of July 2, 2000, as prepared on August 15, 2000, referred to in Section 3.07.

"Balance Sheet Date" means July 2, 2000.

"Benefit Arrangement" means each employment, severance or other similar contract, arrangement or policy (written or oral) and each plan or arrangement (written or oral) providing for severance benefits, insurance coverage (including any self-insured arrangements), workers' compensation, disability benefits, supplemental unemployment benefits, vacation benefits, retirement benefits or for deferred compensation, profit-sharing, bonuses, stock options, stock appreciation rights or other forms of incentive compensation or post-retirement insurance, compensation or benefits which (i) is not an Employee Plan, (ii) is entered into, maintained or contributed to, as the case may be, by Teradyne or any of its ERISA Affiliates and (iii) covers any employee or former employee of Teradyne.

"Business" means the software test businesses operated by the Acquired Companies and TSST (which businesses the parties acknowledge and agree include certain assets and liabilities of, and operations conducted by, Teradyne), but shall not include any other software or hardware businesses of Teradyne (or the software involved therewith), including, without limitation, the software components and software used, developed and sold by each of the following groups and/or divisions of Teradyne: the Semiconductor Test Group, the Telecommunications Division, the Assembly Test Division, the Global Customer Services Division, the Connection Systems Division and the Teradyne Applications Group.

"Closing Date" means the date of the Closing.

"Employee Plans" means each "employee benefit plan", as such term is defined in Section 3(3) of ERISA, that (i) is subject to any provision of ERISA and (ii) is maintained or contributed to by Teradyne or any of its ERISA Affiliates, as the case may be and (iii) covers any employee or former employee of Teradyne.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended.

"ERISA Affiliate" of any entity means any other entity that, together with such entity, will be treated as a single employer under Section 414 of the Code.

"Hammer" means Hammer Technologies, Inc., a Massachusetts corporation and wholly-owned subsidiary of Teradyne.

"HSR Act" means the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended.

"Investment Documents" means the Purchase Agreement, the Registration Rights Agreement and the Stockholders Agreement.

"Lien" means, with respect to any asset (including any security), any mortgage, lien, pledge, charge, option to purchase, right of first refusal, security interest, restriction or encumbrance of any kind in respect of such asset.

"LLC Interest" means all of the membership interests of SFTG LLC.

"Material Adverse Change" means a material adverse change in the business, assets, condition (financial or otherwise), or results of operations.

"Material Adverse Effect" means a material adverse effect on the business, assets, condition (financial or otherwise), or results of operations.

"Matrix" means Matrix Partners VI, L.P., and any other Affiliate fund of Matrix Partners VI, L.P. which is a party to this Agreement.

"Midnight" means Teradyne Midnight Networks, Inc., a Delaware corporation and wholly-owned subsidiary of Teradyne.

"1934 Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"Permitted Liens" means, with respect to any asset, Liens that do not materially detract from the value of such asset as currently used, or materially interfere with any present or intended use of such asset.

"Person" means an individual, corporation, limited liability company, partnership, association, trust or other entity or organization, including a government or political subdivision or an agency or instrumentality thereof.

"Proprietary Rights" means all (A) patents, patent applications, patent disclosures, patent rights and all related continuation, continuation-in-part, divisional, reissue, re-examination, utility, model, certificate of invention and design patents, patent applications, registrations and applications for registrations and invention disclosures (whether or not patented), (B) registered and unregistered trademarks, URL addresses and/or domain names, service marks, trade dress, logos, tradenames, service names and corporate names and registrations and applications for registration thereof, (C) copyrights in both published and unpublished works including without limitation all compilations, databases and computer programs and all copyright registrations and applications for registration thereof and all derivations, translations, adaptations and combinations of the above, (D) mask works and registrations and applications for registration thereof, (E) computer software, data and documentation, (F) trade secrets and confidential or proprietary business information, whether patentable or nonpatentable and whether or not reduced to practice, know-how, manufacturing and product processes and techniques, research and development information (including research in progress), algorithms, data, designs, formulae, drawings, flow charts, beta testing procedures and beta testing results, copyrightable works, financial, marketing and business data, pricing and cost information, business and marketing plans and customer and supplier lists and information, (G) other proprietary rights relating to any of the foregoing (including without limitation associated goodwill and remedies against infringements thereof and rights of protection of an interest therein under the laws of all jurisdictions), and (H) copies and tangible embodiments thereof in each case insofar as the same apply to the Business.

"Purchase Agreement" means that certain Convertible Participating Preferred Stock Purchase Agreement dated as of the date hereof by and among Acquiror and the Investors.

"Registration Rights Agreement" means that certain Registration Rights Agreement between Acquiror and the other parties thereto, substantially in the form attached to the Purchase Agreement.

"RSW Payment" means the maximum amount payable to Yury Rapaport, Anand Sundaram and Raymond S. Wach (the "RSW Founders") after July 2, 2000 by Teradyne or TRSW (not to exceed \$10,100,000) under the terms of the Stock Purchase Agreement by and among RSW, The RSW Founders, TRSW and Teradyne dated as of November 12, 1997, as amended (but excluding any amounts payable under the Key Employee Incentive Plan described in Section 6.08(c)).

"RSW" means RSW Software, Inc., a Massachusetts corporation and wholly-owned subsidiary of TRSW.

"Securities Act" means the Securities Act of 1933, as amended.

"SFTG LLC" means SFTG LLC, a single member Delaware limited liability company wholly-owned by Teradyne.

"Stockholders Agreement" means that certain Stockholders Agreement among Acquiror, Teradyne and the other parties thereto, substantially in the form attached as Exhibit C to the Purchase Agreement.

"Tax" means all federal, state, local, foreign and other taxes including, without limitation, income taxes, estimated taxes, alternative minimum taxes, excise taxes, sales taxes, franchise taxes, employment and payroll related taxes, withholding taxes, transfer taxes and all deficiencies or other additions to tax, interest, fines and penalties.

"Technology License and Transfer Agreement" means the Technology License and Transfer Agreement to be entered by and among Teradyne and Acquiror at the Closing, substantially in the form of Exhibit B hereto.

"Teradyne Counsel" means the law firm of Testa, Hurwitz & Thibault, LLP, Boston, Massachusetts.

"TRSW" means Teradyne RSW Software, Inc., a Delaware corporation and wholly-owned subsidiary of Teradyne.

"TSST" means Teradyne Software and Systems Test, Inc., a Delaware corporation and wholly-owned subsidiary of Teradyne.

"Warrant" means the warrant to purchase 1,528,037 shares of Common Stock of Acquiror (subject to the limits contained therein) in the form attached hereto as Exhibit A.

(b) Each of the following terms is defined in the Section set forth opposite such term:

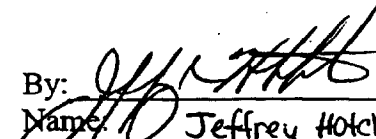
<u>Term</u>	<u>Section</u>
Accounting Referee	2.03
Acquired Company Required Consent	3.03
Acquired Company Securities	3.05
Affiliated Group	3.16
Acquiror	Recitals
Acquiror Securities	5.07
Boot	8.07
Business Assets	6.07
Cash Consideration	2.01
Closing	2.01
Closing Balance Sheet	2.03
Code	Recitals
Confidential Information	8.04
Consolidated Returns	3.16
Contributed Interim Consideration	2.03
Convertible Participating Preferred Stock	2.01

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of
day and year first above written.

TERADYNE, INC.

By: _____
Name:
Title:

EMPIRIX INC.

By: 
Name: Jeffrey Hotchkiss
Title: President

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement
as of the day and year first above written.

TERADYNE, INC.

By: MA Bradley
Name: Michael A. Bradley
Title: Vice President

EMPIRIX, INC.

By: _____
Name: _____
Title: _____

TRADEMARK ASSIGNMENT

WHEREAS, RSW Software, Inc., a Massachusetts corporation (hereinafter referred to as "Assignor") and Empirix Inc., a Delaware corporation (hereinafter referred to as "Assignee") have agreed that Assignee shall own and hold all right, title and interest of Assignor in and to certain trademarks and trademark applications set forth on Exhibit C2 attached hereto and made a part hereof (hereinafter referred to as "Marks"); and

WHEREAS, Assignor has agreed to execute such additional instruments as may be necessary or desirable to confirm such assignment to Assignee;

NOW THEREFORE, in consideration of the foregoing, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Assignor hereby sells, assigns, transfers and sets over to Assignee, its successors, legal representatives and assigns, the right, title, and interest of Assignor in and to said Marks, together with the goodwill of the business in connection with which the aforesaid Marks have been used, and all claims, if any, which may have arisen thereunder prior to the date of this instrument. Assignor makes no representation or warranty to Assignee herein.

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EXHIBIT C2

#	<u>Registration No.</u>	<u>Application No.</u>	<u>Division</u>	<u>Mark</u>
1.		75/502437	RSW	E-TEST
2.		75/502438	RSW	E-LOAD
3.		75/502439	RSW	E-MONITOR
4.		75/816305	RSW	TESTMYBEANS
5.		76/007506	EJB	AUTOGEN
6.		76/009970	EJB	AUTOPUB
7.		76/007714	EJB	SYNCLOAD
8.		76/013969	RSW	EMPIRYX
9.		76/013970	RSW	EMPIRIX
10.		76/007503	RSW	E-SENTINEL
11.		76/024930	EJB	TESTADVISOR
12.		76/043432	EJB	AUTOTUNE
13.		76/043411	EJB	EJB-LOAD
14.		76/043430	EJB	EJB-MONITOR
15.		76/042993	EJB	EJB-TEST
16.		76/043410	EJB	EJB-TESTSUITE
17.		76/043431	EJB	EJB-TESTER
18.		76/101854	RSW	D-TRACKER
19.		76/101853	RSW	E-MANAGER

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RECORDED: 07/22/2002

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