

07-30-2002

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



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

Tab settings

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

1. Name of conveying party(ies): WalkAbout Computers, Inc.

07/15/02

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

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

2. Name and address of receiving party(ies) Name: Keltic Financial Partners, LP

Internal Address: Suite C-207

Street Address: 555 Theodore Fremd Avenue

City: Rye State: New York Zip: 10580

- Individual(s) citizenship, Association, General Partnership, Limited Partnership Domestic to Delaware, Corporation-State, Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No

3. Nature of conveyance:

- Assignment, Merger, Security Agreement, Change of Name, Other

Execution Date: July 8, 2002

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 2,252,354 2,386,931

Additional number(s) attached Yes No

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

Name: Corporation Service Company

Internal Address: Attn: Patrick Lalor

Street Address: 80 State Street, 6th Floor

City: Albany State: NY Zip: 12207

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41): \$ 65.00

- Enclosed, Authorized to be charged to deposit account

8. Deposit account number:

(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. Attached copy is a true copy of the original document.

Patrick Lalor Name of Person Signing

Signature Date 12, 2002

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

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01 FC:481 02 FC:482

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TRADEMARK REEL: 002551 FRAME: 0889

**TRADEMARK COLLATERAL ASSIGNMENT  
AND SECURITY AGREEMENT**

**THIS AGREEMENT** is made on the 8<sup>th</sup> day of July, 2002 between **WALKABOUT COMPUTERS, INC.** ("Assignor") and **KELTIC FINANCIAL PARTNERS, LP**, a Delaware limited partnership having an office at 555 Theodore Fremd Avenue, Suite C-207, Rye, New York 10580 ("Lender").

BACKGROUND. Assignor has executed and delivered its revolving note to the Lender in the aggregate principal amount of \$4,000,000.00 (the "Note"), pursuant to a certain revolving loan agreement and a general security agreement each dated even date herewith between Assignor and Lender (the revolving loan agreement and the general security agreement, as amended from time to time, are collectively referred to herein as, the "Loan Agreement"). In order to induce the Lender to execute and deliver the Loan Agreement, Assignor has agreed to assign to Lender certain trademark rights. This Trademark Collateral Assignment is being executed contemporaneously with the Loan Agreement under which the Lender is granted a lien on and security interest in, among other things, all machinery, equipment, formulations, manufacturing procedures, quality control procedures and product specifications ("Other Assets") relating to products sold or services performed under the Trademarks (as defined below), whereby Lender shall have the right to foreclose on the Trademarks and the Other Assets in the event of the occurrence and continuance of an Event of Default under the Loan Agreement, in order that Assignor may continue the manufacture of products to be sold or provide the service to be performed under the Trademarks and maintain substantially the same product specifications, types of services and quality as maintained by Assignor.

**NOW, THEREFORE**, in consideration of the premises, Assignor hereby agrees with Lender as follows:

1. To secure the complete and timely satisfaction of all Obligations (as defined in the Loan Agreement), Assignor hereby grants, assigns and conveys to Lender the entire right, title and interest in and to the trademark applications and trademarks and service marks listed in **Schedule A** hereto (as the same may be amended pursuant hereto from time to time), including without limitation all renewals thereof, all proceeds of infringement suits or other proceeds, the right to sue for past, present and future infringements and all rights corresponding thereto throughout the world (all of the foregoing are collectively called, the "Trademarks"), and the goodwill of the business to which each of the Trademarks relates.

2. Assignor covenants and warrants that:

- (a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable;
- (b) Except as set forth on **Schedule B**, to the best of Assignor's knowledge, each of the Trademarks is valid and enforceable;
- (c) Except as set forth on **Schedule B**, to the best of Assignor's knowledge, no claim has been made that the use of any of the Trademarks does or may violate the rights of any third person;
- (d) Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, free and clear of any liens, charges and encumbrances, including, without limitation, pledges, assignments, licenses, registered user agreements and covenants by Assignor not to sue third persons in respect of the Trademarks;
- (e) Assignor has the unqualified right to enter into this Agreement and perform its terms;
- (f) Assignor has used, and will continue to use for the duration of this Agreement, proper statutory notice in connection with its use of the Trademarks; and
- (g) Assignor has used, and will continue to use for the duration of this Agreement, consistent standards of quality in its manufacture of products sold or the services performed under the Trademarks.

3. Assignor hereby grants to Lender and its employees and agents the right to visit Assignor's plants and facilities which manufacture, inspect, store or develop products sold under any of the Trademarks, and to inspect the products and quality control records relating thereto during regular business hours. Assignor shall do any and all acts required by Lender to ensure Assignor's compliance with **Subparagraph 2(g)**.

4. Assignor agrees that, until all of the Obligations shall have been satisfied in full, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Assignor's obligations under this Agreement, without Lender's prior written consent.

5. If, before the Obligations shall have been satisfied in full, Assignor shall obtain rights to any new trademarks, the provisions of paragraph 1 shall automatically apply thereto and Assignor shall give Lender prompt written notice thereof.

6. Assignor authorizes Lender to modify this Agreement by amending **Schedule A** to include any future trademarks and trademark applications covered by **Paragraphs 1 and 5** hereof.

7. Unless and until there shall have occurred and be continuing an Event of Default (as defined in the Loan Agreement), Lender hereby grants to Assignor the

exclusive, nontransferable right and license to use the Trademarks on and in connection with products sold or developed by Assignor, for the benefit and account of Assignor and its clients and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this **Paragraph 7**, without the prior written consent of Lender.

8. If any Event of Default shall have occurred and be continuing, Assignor's license under the Trademarks, as set forth in **Paragraph 7**, shall terminate forthwith, and the Lender shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be located and, without limiting the generality of the foregoing, the Lender may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Assignor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in New York, New York, or elsewhere, all or from time to time any of the Trademarks, or any interest which the Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for broker's fees and legal services), shall apply the residue of such proceeds to payment of the Obligations. Any remainder of the proceeds after payment in full of the Obligations shall be paid over to the Assignor. Notice of any sale or other disposition of the Trademarks shall be given to Assignor at least ten (10) days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which Assignor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, any holder of the Note or Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of Assignor, which right is hereby waived and released.

9. At such time as Assignor shall completely satisfy all of the Obligations, this Agreement shall terminate and Lender shall execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Trademarks, subject to any disposition thereof which may have been made by Lender pursuant hereto.

10. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorney's fees and legal expenses incurred by Lender in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the

Trademarks, shall be borne and paid by Assignor on demand by Lender and until so paid shall be added to the principal amount of the Obligations and shall bear interest at the highest rate prescribed in the Loan Agreement.

11. Assignor shall have the duty, through counsel acceptable to Lender, to prosecute diligently any trademark applications of the Trademarks pending as of the date of this Agreement or thereafter until the Obligations shall have been paid in full, to make federal application on registrable but unregistered Trademarks, to file and prosecute opposition and cancellation proceedings and to do any and all acts which are necessary or desirable to preserve and maintain all rights in the Trademarks. Any expenses incurred in connection with the Trademarks shall be borne by Assignor. The Assignor shall not abandon any Trademark without the consent of the Lender.

12. Assignor shall have the right, with the prior written consent of Lender, to bring any opposition proceedings, cancellation proceedings or lawsuit in its own name to enforce or protect the Trademarks, in which event Lender may, if necessary, be joined as a nominal party to such suit if Lender shall have been satisfied that it is not thereby incurring any risk of liability because of such joinder. Assignor shall promptly, upon demand, reimburse and indemnify Lender for all damages, costs and expenses, including attorney's fees, incurred by Lender in the fulfillment of the provisions of this **Paragraph 12**.

13. In the event of the occurrence of an Event of Default under the Loan Agreement, Assignor hereby authorizes and empowers Lender to make, constitute and appoint any officer or agent of Lender as Lender may select, in its exclusive discretion, as Assignor's true and lawful attorney-in-fact, with the power to endorse Assignor's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks, or to grant or issue any exclusive or nonexclusive license under the Trademarks to anyone else, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone else. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable for the life of this Agreement.

14. If Assignor fails to comply with any of its obligations hereunder, Lender may do so in Assignor's name or in Lender's name, but at Assignor's expense, and Assignor hereby agrees to reimburse Lender in full for all expenses, including reasonable attorney's fees, incurred by Lender in protecting, defending and maintaining the Trademarks.

15. No course of dealing between Assignor and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Loan Agreement shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege

hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

16. All of Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Loan Agreement, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

17. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any other clause or provision of this Agreement in any jurisdiction.

18. This Agreement is subject to modification only by a writing signed by the parties, except as provided in **Paragraph 6**.

19. The benefits and burdens of this Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

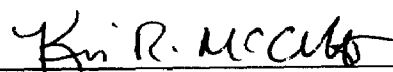
20. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the State of New York.

**WITNESS** the execution hereof under seal as of the day and year first above written.

WITNESS:


WALKABOUT COMPUTERS, INC. , Assignor

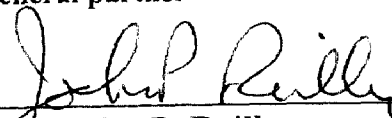
  
\_\_\_\_\_  
Clinton A. Poff, Esq.

By   
\_\_\_\_\_  
Name: Kevin McCarthy  
Title: Secretary

WITNESS:

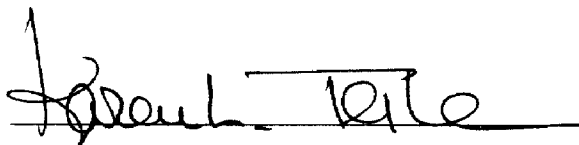
KELTIC FINANCIAL PARTNERS, LP, Lender  
By KELTIC FINANCIAL SERVICES, LLC,  
its general partner

  
\_\_\_\_\_  
Clinton A. Poff, Esq.

By   
\_\_\_\_\_  
Name: John P. Reilly  
Title: Managing Partner

STATE OF NEW YORK )  
 ) SS  
COUNTY OF WESTCHESTER )

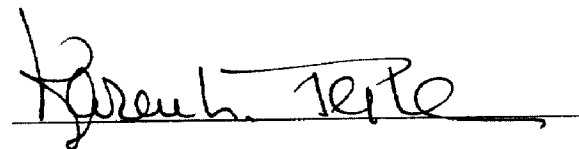
I CERTIFY that on July 8, 2002, appeared before me, Kevin McCarthy, to me known, who, being by me duly sworn, did depose and say that he is the Secretary of WalkAbout Computers, Inc., the corporation described in and which executed the foregoing instrument; that he knows the seal of the corporation, that the seal affixed to the instrument is such corporate seal; that it was so affixed by order of the board of directors of the corporation, and that he signed his name thereto by like order.



Notary Public:  
My commission expires:  
**KAREN L. TERHUNE**  
Notary Public, State of New York  
No. 60-4728495  
Qualified in Westchester County  
Commission Expires Aug. 31, 2002

STATE OF NEW YORK )  
 ) SS  
COUNTY OF WESTCHESTER )

I CERTIFY that on July 8, 2002, appeared before me, John P. Reilly to me known, who, being by me duly sworn, did depose and say that he is the managing partner of Keltic Financial Services, LLC, the general partner of Keltic Financial Partners, LP, a Delaware limited partnership, the limited partnership described in and which executed the foregoing instrument; and that he signed, sealed and delivered this document as his voluntary act and deed as the managing partner of Keltic Financial Services, LLC, the general partner of Keltic Financial Partners, LP and as the voluntary act and deed of the limited partnership.



Notary Public:  
My commission expires:  
**KAREN L. TERHUNE**  
Notary Public, State of New York  
No. 60-4728495  
Qualified in Westchester County  
Commission Expires Aug. 31, 2002

**SCHEDULE A  
TO TRADEMARK COLLATERAL ASSIGNMENT  
DATED JULY 8, 2002  
WALKABOUT COMPUTERS, INC. AND  
KELTIC FINANCIAL PARTNERS, LP**

<b>TRADEMARK OR SERVICE MARK</b>	<b>REGISTRATION NO.</b>	<b>COUNTRY</b>	<b>REGISTRATION OR FILING DATE</b>	<b>EXPIRATION DATE</b>
WalkAbout and Designs	No. 2,252,354	USA	June 15, 1999	June 15, 2009
Hammerhead	No. 2,386,931	USA	Sept. 19, 2000	Sept. 19, 2010



**SCHEDULE B  
TO TRADEMARK COLLATERAL ASSIGNMENT  
DATED JULY 8, 2002  
WALKABOUT COMPUTERS, INC. AND  
KELTIC FINANCIAL PARTNERS, LP**

**NONE**