

08-26-2002



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

OFFICE OF PUBLIC RECORDATION FOR TRADEMARKS

DEPT. OF COMMERCE 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): Everest Broadband Networks, Inc. [] Individual(s) [] Association [] General Partnership [] Limited Partnership [x] Corporation-State Delaware [] Other Additional name(s) of conveying party(ies) attached? [] Yes [x] No

2. Name and address of receiving party(ies) Name: Regout Private Equity Fund II, L.P. Internal Address: c/o Regout Capital Management, Inc. Street Address: 500 Nyala Farm Road City: Westport State: CT Zip: 06880 [] Individual(s) citizenship [] Association [] General Partnership [x] Limited Partnership Delaware [] Corporation-State [] Other If assignee is not domiciled in the United States, a domestic representative designation is attached: [] Yes [x] No Additional name(s) & address(es) attached? [] Yes [x] No

3. Nature of conveyance: [] Assignment [] Merger [x] Amendment to Security Agreement [] Change of Name [] Other Execution Date: July 30, 2002

4. Application number(s) or registration number(s): A. Trademark Application No.(s) 76311347; 76139430 B. Trademark Registration No.(s) 2595498 Additional number(s) attached [] Yes [x] No

5. Name and address of party to whom correspondence concerning document should be mailed: Name: Stanton J. Lovernorth, Esq. Internal Address: Street Address: Dewey Ballantine LLP 1301 Avenue of the Americas City: New York State: NY Zip: 10019

6. Total number of applications and registrations involved: 3 7. Total fee (37 CFR 3.41): \$ 90.00 [x] Enclosed [] Authorized to be charged to deposit account 8. Deposit account number: N/A (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. Stanton J. Lovernorth Name of Person Signing [Signature] Signature 8/20/02 Date

Total number of pages including cover sheet, attachments, and document: 7

08/23/2002 TDIAZ1 00000070 76311347

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

01 FC:481 40.00 OP 02 FC:482 50.00 OP

TRADEMARK REEL: 2569 FRAME: 0352

Exec

**FIRST AMENDMENT TO
DEMAND NOTE SECURITY AGREEMENT**

THIS FIRST AMENDMENT TO DEMAND NOTE SECURITY AGREEMENT (the "First Amendment") is entered into as of July 30, 2002, by and between EVEREST BROADBAND NETWORKS, INC., a Delaware corporation ("Borrower"), and Pequot Private Equity Fund II, L.P., (the "Lender" and "Collateral Agent").

WHEREAS, the Borrower previously issued to the Lender a Secured Promissory Note in an aggregate principal amount of \$150,000, dated as of July 3, 2002, a copy of which is attached as **Exhibit A** (the "Original Note"); and

WHEREAS, in conjunction with the Note, the Borrower previously granted to the Lender a security interest in the Collateral specified in and pursuant to a certain Demand Note Security Agreement dated as of July 3, 2002, a copy of which is attached as **Exhibit B** (the "Original Security Agreement"); and

WHEREAS, pursuant to Section 17 of the Original Security Agreement, Collateral Agent desires to amend and modify the Original Security Agreement in the manner and to the extent set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth in this First Amendment, the Borrower, Lender and Collateral Agent agree as follows:

1. Defined Terms. Terms that are used herein with initial capital letters and that are not otherwise defined shall have the meanings given to them in the Original Security Agreement.

2. Amendments to the Original Security Agreement:

2.01: Preliminary Statements. Section 1 of the Preliminary Statements of the Original Security Agreement is hereby deleted in its entirety and replaced with the following:

"1. The Borrower desires to borrow and the Lender desires to make one or more demand loans to the Borrower in an aggregate principal amount not to exceed \$2000,000.00 (the "Loan") all of which shall be evidenced by one or more secured promissory notes of the Borrower (together, the "Note")."

Section 2.02: Preliminary Statements. Section 3 of the Preliminary Statements of the Original Security Agreement is hereby deleted in its entirety and replaced with the following:

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"3. The security interests contemplated by the Security Agreement shall become effective only upon Borrower obtaining necessary consents."

Section 2.03: Section 18. Notices The language "Attention: Carol Holley and Amber Tencic" in the final line of the notice address for Pequot Private Equity Fund II, L.P. in Section 18 of the Original Security Agreement is hereby deleted in its entirety and replaced with the language "Attention: Aryeh Davis and Amber Tencic."

3. Effect of Agreement. The provisions of the Original Security Agreement are amended and modified by the provisions of this First Amendment. If any provisions of the Original Security Agreement are materially different from or inconsistent with any of the provisions of this First Amendment, the provisions of this First Amendment shall control to the extent of such difference or inconsistency, and the Original Security Agreement shall be deemed to be amended and modified.

4. Single Agreement. This First Amendment and the Original Security Agreement, as amended and modified by the provisions of this First Amendment, shall constitute and be construed as a single agreement.

5. Miscellaneous. Except as provided herein, the Original Security Agreement shall remain unchanged and in full force and effect. This First Amendment may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument, and any of the parties hereto may execute this First Amendment by signing any such counterpart. Facsimile execution and delivery of this First Amendment shall be legal, valid and binding execution and delivery for all purposes. The internal law of the State of New York will govern the interpretation, construction, and enforcement of this First Agreement and all transactions and agreements contemplated hereby, notwithstanding any state's choice of law rules to the contrary.

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IN WITNESS WHEREOF, this First Amem lment is hercbly executed and delivered by the parties as of the date first written above.

BORROWER:

EVEREST BROADE AND NETWORKS, INC.

By: *[Signature]*
Name: *Darrin Ul enck*
Title: *Chief Financial Officer*

LENDER:

PEQUOT PRIVATE EQUITY FUND II, L.P.

By: Pequot Capital Management, Inc.;
its Investment Manager

By: _____
Name: Kevin E. O'Brien
Title: General Counsel

COLLATERAL AGENT:

PEQUOT PRIVATE EQUITY FUND II, L.P.

By: Pequot Capital Management, Inc.;
its Investment Manager

By: _____
Name: Kevin E. O'Brien
Title: General Counsel

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IN WITNESS WHEREOF, this First Amendment is hereby executed and delivered by the parties as of the date first written above.

BORROWER:

EVEREST BROADBAND NETWORKS, INC.

By: _____

Name:

Title:

LENDER:

PEQUOT PRIVATE EQUITY FUND II, L.P.

By: Pequot Capital Management, Inc.; its Investment
Manager

By: Kevin E. O'Brien

Printed Name: Kevin E. O'Brien

Title: General Counsel

COLLATERAL AGENT:

PEQUOT PRIVATE EQUITY FUND II, L.P.

By: Pequot Capital Management, Inc.; its Investment
Manager

By: Kevin E. O'Brien

Printed Name: Kevin E. O'Brien

Title: General Counsel

EXHIBIT A

SECURED PROMISSORY NOTE
DATED JULY 3, 2002

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EXHIBIT B

**DEMAND NOTE SECURITY AGREEMENT
DATED JULY 3, 2002**

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