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05-29-2003



Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings

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I.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):

CELL METRIX, INC.

- 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: NEXGEN ERGONOMICS INC.

Internal Address: SUITE 750

Street Address: 6600 TRANS CANADA HWY

City: MONTREAL State: QUEBEC Zip: H9R 4S2

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: SEE AFFIDAVIT ATTACHED

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

A. Trademark Application No.(s)

N/A

B. Trademark Registration No.(s)

1656637

Additional number(s) attached Yes No

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

Name: NEXGEN ERGONOMICS INC.

Internal Address: SUITE 750

Street Address: 6600 TRANSCANADA HWY

City: MONTREAL State: CANADA Zip: H9R 4S2

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:

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.

DAVID BEKHOR Name of Person Signing

[Signature] Signature

MAY 16, 2003 Date

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

05/29/2003 TDIAZ1 00000061 1656637

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

01 FC:8521

40.00 DP

TRADEMARK REEL: 002659 FRAME: 0419

## AFFIDAVIT

RE: TM Registration Name : HUMANCAD  
TM Registration Number : !656637  
Recordation Form : PTO-1594  
Continuation of Item 3

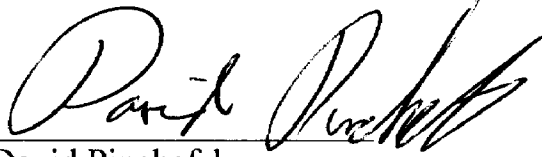
I, David Pinchefskey, executive of the City of Montreal, Canada, being duly sworn, do hereby solemnly swear, to the best of my knowledge as follows:

- (1) I am President of NexGen Ergonomics Inc. (NexGen).
- (2) In early November, 2000, I was in discussions with CellMetrix, Inc. (CellMetrix) with respect to the rights to a software product called ManneQuinPRO, also known as MQPro, (collectively MQPro), as evidenced by letter dated November 9, 2000, copy of which is attached as Exhibit 1 to this Affidavit (Exhibit 1 Letter). The Exhibit 1 Letter was signed by Karen Tantone who was the Corporate Secretary at the time, as shown in Yahoo Finance Corporate Profile (printed on May 14, 2003), copy of which is attached as Exhibit 2 to this Affidavit.
- (3) The MQPro product was developed and marketed under the HUMANCAD Trademark by HumanCAD Systems Inc. (HumanCAD) which was a division, and subsequently, a subsidiary of BCAM International, Inc. (BCAM); this is evidenced by the cover and inside page of the user manual for the MQPro product, copy of which 2 pages are attached as Exhibit 3 to this Affidavit.
- (4) The HUMANCAD Trademark (US TM Registration Number 1656637) is currently registered in the name of BCAM.
- (5) As disclosed in the Exhibit 1 Letter, CellMetrix had previously changed its name from BCAM to CellMetrix; this occurred in June 2000 as stated in the "pinksheets.com" Company Information, copy of which is attached as Exhibit 4 to this Affidavit.
- (6) BCAM (which is currently the registered owner of the HUMANCAD Trademark) had itself changed its name to BCAM from BIOMECHANICS CORPORATION OF AMERICA CORPORATION, which was the original Registrant of the HUMANCAD Trademark; this name change occurred in June 1995 as evidenced in Exhibit 2 and has already been filed with the US Patent and Trademark Office.
- (7) On October 5, 1998, HumanCAD filed for bankruptcy assignment, as evidenced by e-mail dated October 14, 1998 from Leslie Listro of HumanCad, copy of which is attached as Exhibit 5 to this Affidavit.
- (8) Subsequent to receiving the Exhibit 1 Letter from CellMetrix, NexGen concluded negotiations with the Trustee in Bankruptcy, The Fuller Landau Group Inc. (Fuller Landau), Trustee of the Estate of HumanCAD Systems Inc. to acquire certain of the assets of HumanCAD, including the source code for the MQPro

product, as evidenced by the Purchase Agreement dated April 3, 2001, copy of which is attached as Exhibit 6 to this Affidavit (purchase price not shown for confidentiality reasons).

(9) NexGen also acquired the "humancad.com" and "mqpro.com" Domain Names on June 5, 2001 as shown in the WHOIS Records obtained from networksolutions.com, copy of which is attached as Exhibit 7 to this Affidavit.

(10) In early 2001 CellMetrix ceased operations.



David Pinchefsky

Sworn before me  
this 16<sup>th</sup> day of MAY, 2003.



Practicing Attorney for District of Montreal.

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HumanCAD Systems  
1800 Walt Whitman Road, Melville, New York 11747  
www.mqpro.com

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HumanCAD Systems is a division of BCA Services, Inc. BCA Services, Inc. provides comprehensive consulting in the area of ergonomic product design and workplace assessment. For more information, please call (516) 752-3550.

HumanCAD is a registered trademark and MQPro is a product and trademark of BCAM International, Inc. All other company, brand names, product names or trademarks belong to their respective holders.

EXHIBIT 5

**Subject: Suspension of Business Activities**

**Date:** Wed, 14 Oct 1998 11:32:27 -0400

**From:** "Leslie J. Listro" <leslie.listro@humancad.com>

**Organization:** HumanCAD Systems Inc.

**To:** "R. Barry Johnson" <barry@oetc.com>

**CC:** Robert Hildeman <roberth@mcesoft.com>, Bonnie Mason <bmason@cadconcepts.com>, Fred Hughes <fred@ergonomicsinc.com>, David Pinchefskey <nexgen@globalserve.net>

We regret to inform you that effective October 5, 1998 HumanCAD Systems Inc. of Suite 210-3100 Steeles Avenue West, Concord, Ontario, L4K 3R1 has suspended all business activities under an assignment of bankruptcy.

The trustee is currently reviewing the situation. Until further notice permanent program authorization site keys cannot be issued.

Please direct any inquiries to Mr. Abrahamson at:

Fuller Landau,  
12th Floor, 151 Bloor Street West,  
Toronto, ON, M5S 1S4

416-925-2287 ext: 242  
416-925-3119 fax:

gabrahamson@fullerlandau.com

**BILL OF SALE**

**BETWEEN:**

**The Fuller Landau Group Inc., Trustee of the Estate of HumanCAD Systems Inc., a bankrupt, and not in its personal capacity (hereinafter called the "Vendor")**

- and -

**Nexgen Ergonomics Inc., a corporation incorporated under the laws of the Province of Quebec (hereinafter called the "Purchaser")**

**WHEREAS** the Vendor has been appointed as Trustee in Bankruptcy of the Estate of HumanCAD Systems Inc., a bankrupt (the "Company");

**AND WHEREAS** the Vendor has agreed to sell its right, title and interest, if any, in and to a certain asset (the "Asset") of the Company to the Purchaser, as described below:

- the source code, if any, on a certain compact disk, referenced as:

**"HCAD Source + ACIS training + MQOnsite Install 03/98"**

**NOW THIS AGREEMENT WITNESSETH** that, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt of which is hereby acknowledged:

The Vendor assigns, conveys, transfers and sets out all of its right, title and interest, if any, in and to the Asset, and the Purchaser hereby accepts the Asset subject to the terms and conditions herein:

**TERMS AND CONDITIONS**

1. The purchase price for the Asset shall be \_\_\_\_\_ which will be paid by bank draft or certified cheque payable to The Fuller Landau Group Inc., on or before execution of this Bill of Sale.
2. The Vendor hereby represents that it has the right to convey all of its right, title and interest in the Asset, if any, and that it has not done or permitted any act to encumber the Asset or any part thereof.

3. The Purchaser acknowledges and agrees that it has inspected the Asset and agrees that the Asset is being purchased on an "as is, where is" basis. The Purchaser further acknowledges that no warranty, condition, or representation, whether statutory (including under the *Sale of Goods Act - Ontario*) express or implied, oral or written, legal, equitable, conventional, collateral or otherwise, as to title, description, fitness for purpose, quality, quantity, suitability, durability, marketability or condition of the Asset or to any other matter is given by the Vendor and is hereby expressly excluded. Without limiting the generality of the foregoing, the Asset is specifically offered as it exists with no representation as to the condition or quantity of same and with no adjustment to be allowed to the Purchaser for changes or differences in the condition or quantities of the Asset. The Purchaser shall be deemed to have relied solely upon its own inspection and investigation with regard to the purchase of the Asset and the Vendor will under no circumstances be liable for any damages incurred by the Purchaser as a result of its purchase of the Asset.
4. The Purchaser acknowledges that the Asset utilizes copyright, trademark and intellectual property rights to which the Vendor has no ownership rights.
5. The Purchaser acknowledges the Vendor has no information concerning whether the Asset is Year 2000 compliant.
6. The Purchaser hereby covenants and agrees that it shall be solely liable for and promptly pay all taxes exigible as a consequence of the sale of the Asset or any part thereof, and hereby irrevocably agrees to indemnify and save the Vendor harmless from any claim arising from its failure to do so.
7. The Purchaser shall be responsible, at its own cost and expenses, for arranging the delivery of the Asset.
8. The parties hereby agree to execute such further assurances as may be reasonably required to give effect to and confirm the transactions contemplated herein.
9. This contract and the determination and enforcement of all rights hereunder shall be governed by the laws of the Province of Ontario and to the extent applicable, by the laws of Canada.
10. This document may be executed in counterparts and by facsimile.

**IN WITNESS WHEREOF** the parties hereto have executed this agreement this 3<sup>rd</sup> day of April, 2001.

**The Fuller Landau Group Inc.**, in its capacity as Trustee in Bankruptcy of the Estate of HumanCAD Systems Inc., and not in its personal capacity

\_\_\_\_\_  
Gary Abrahamson

I have the authority to bind the Corporation

**Nexgen Ergonomics Inc.**

\_\_\_\_\_  
David Pinchefskey

I have the authority to bind the Corporation