



02-03-2003



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

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):

1-29-03

TradeBeam, Inc.

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

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

2. Name and address of receiving party(ies)

Name: Enterprise Partners V, L.P.

Internal Address:

Street Address: 2223 Avenida de la Playa, #300

City: La Jolla State: CA Zip: 92037

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

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (checked) (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No (checked)

3. Nature of conveyance:

- Assignment, Merger, Security Agreement (checked), Change of Name, Other

Execution Date: January 16, 2003

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

A. Trademark Application No.(s) 75-634,348; 75-635,230; 78-000,925; 78-028,178

B. Trademark Registration No.(s) 2,494,490; 2,466,262; 2,466,369; 2,534,298

Additional number(s) attached Yes No (checked)

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

Name: David Buchanan

Internal Address:

c/o Brobeck, Phleger & Harrison, LLP

Street Address: 12390 El Camino Real

City: San Diego State: CA Zip: 92130

6. Total number of applications and registrations involved: 8

7. Total fee (37 CFR 3.41) \$ 320

- Enclosed (checked), Authorized to be charged to deposit account

8. Deposit account number:

DO NOT USE THIS SPACE

9. Signature 02/03/2003 BT0111 00000001 75634348

David Buchanan Name of Person Signing

40.00 OP 175.00 OP

Signature of David Buchanan

January 28, 2003 Date

Total number of pages including cover sheet, attachments, and document: 11

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

Refund Ref: 02/03/2003 BT0111 0000124033

CHECK Refund Total: \$105.00

TRADEMARK REEL: 002663 FRAME: 0167

SECURITY AGREEMENT

This Security Agreement is made and entered into this 16th day of January, 2003, by and between TradeBeam, Inc., a Delaware corporation ("Debtor"), and Enterprise Partners V, L.P. (the "Secured Party"), a holder of a Secured Convertible Promissory Note in the principal amount of Seven Hundred and Fifty Thousand Dollars (\$750,000) (the "Note").

RECITALS

A. Debtor has executed and delivered the Note in the original aggregate principal amount of \$750,000 and payable to the order of the Secured Party pursuant to that certain Secured Convertible Promissory Note and Warrant Purchase Agreement by and between Debtor and the Secured Party dated as of the date hereof (the "Purchase Agreement").

B. In connection with the Note, Debtor desires to grant a security interest in certain collateral to the Secured Party as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the above recitals and the mutual covenants hereinafter set forth, the parties hereto agree as follows:

1. Creation of Security Interest. Debtor hereby grants to the Secured Party a first priority security interest in all of Debtor's right, title and interest in and to the collateral described in Section 3 herein below (the "Collateral") in order to secure the payment and performance of the obligations of Debtor to the Secured Party described in Section 3 below.

2. Definitions. When used in this Security Agreement, the following terms shall have the following meanings:

"Contracts" means all contracts (including any customer, vendor, supplier, service or maintenance contract), leases, licenses, undertakings, purchase orders, permits, franchise agreements or other agreements (other than any right evidenced by Chattel Paper, Documents or Instruments), whether in written or electronic form, in or under which Debtor now holds or hereafter acquires any right, title or interest, including, without limitation, with respect to an Account, any agreement relating to the terms of payment or the terms of performance thereof.

"Copyright License" means any agreement, whether in written or electronic form, in which Debtor now holds or hereafter acquires any interest, granting any right in or to any Copyright or Copyright registration (whether Debtor is the licensee or the licensor thereunder) including, without limitation, licenses pursuant to which Debtor has obtained the exclusive right to use a copyright owned by a third party.

"Copyrights" means all of the following now owned or hereafter acquired or created (as a work for hire for the benefit of Debtor) by Debtor or in which Debtor now holds or hereafter acquires or receives any right or interest, in whole or in part: (a) all copyrights, whether registered or unregistered, held pursuant to the laws of the United States, any State thereof or any other country; (b) registrations, applications, recordings and proceedings in the United States

Copyright Office or in any similar office or agency of the United States, any State thereof or any other country; (c) any continuations, renewals or extensions thereof; (d) any registrations to be issued in any pending applications, and shall include any right or interest in and to work protectable by any of the foregoing which are presently or in the future owned, created or authorized (as a work for hire for the benefit of Debtor) or acquired by Debtor, in whole or in part; (e) prior versions of works covered by copyright and all works based upon, derived from or incorporating such works; (f) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect to copyrights, including, without limitation, damages, claims and recoveries for past, present or future infringement; (g) rights to sue for past, present and future infringements of any copyright; and (h) any other rights corresponding to any of the foregoing rights throughout the world.

“License” means any Copyright License, Patent License, Trademark License or other license of rights or interests, whether in-bound or out-bound, whether in written or electronic form, now or hereafter owned or acquired or received by Debtor or in which Debtor now holds or hereafter acquires or receives any right or interest, and shall include any renewals or extensions of any of the foregoing thereof.

“Patent License” means any agreement, whether in written or electronic form, in which Debtor now holds or hereafter acquires any interest, granting any right with respect to any invention on which a Patent is in existence (whether Debtor is the licensee or the licensor thereunder).

“Patents” means all of the following in which Debtor now holds or hereafter acquires any interest: (a) all letters patent of the United States or any other country, all registrations and recordings thereof and all applications for letters patent of the United States or any other country, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country; (b) all reissues, divisions, continuations, renewals, continuations-in-part or extensions thereof; (c) all petty patents, divisionals and patents of addition; (d) all patents to issue in any such applications; (e) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect to patents, including, without limitation, damages, claims and recoveries for past, present or future infringement; and (f) rights to sue for past, present and future infringements of any patent.

“Trademark License” means any agreement, whether in written or electronic form, in which Debtor now holds or hereafter acquires any interest, granting any right in and to any Trademark or Trademark registration (whether Debtor is the licensee or the licensor thereunder).

“Trademarks” means any of the following in which Debtor now holds or hereafter acquires any interest: (a) any trademarks, tradenames, corporate names, company names, business names, trade styles, service marks, logos, other source or business identifiers, prints and labels on which any of the foregoing have appeared or appear, designs and general intangibles of like nature, now existing or hereafter adopted or acquired, all registrations and recordings thereof and any applications in connection therewith, including, without limitation, registrations, recordings and applications in the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof or any other country (collectively, the “Marks”); (b) any reissues, extensions or renewals thereof; (c) the goodwill of the business

symbolized by or associated with the Marks; (d) income, royalties, damages, claims and payments now and hereafter due and/or payable with respect to the Marks, including, without limitation, damages, claims and recoveries for past, present or future infringement; and (e) rights to sue for past, present and future infringements of the Marks.

“UCC” means the Uniform Commercial Code as the same may from time to time be in effect in the State of California; provided, however, in the event that, by reason of mandatory provisions of law, any or all of the attachment, perfection or priority of Secured Party’s security interest in any Collateral is governed by the Uniform Commercial Code as in effect in a jurisdiction other than the State of California, the term “UCC” shall mean the Uniform Commercial Code as in effect at such time in such other jurisdiction for purposes of the provisions hereof relating to such attachment, perfection or priority and for purposes of definitions related to such provisions.

In addition, the following terms shall be defined terms having the meaning set forth for such terms in the UCC: “Account” (including health-care-insurance receivables), “Chattel Paper” (including tangible and electronic chattel paper), “Commercial Tort Claims”, “Commodity Account”, “Deposit Account”, “Documents”, “Equipment” (including all accessions and additions thereto), “Fixtures”, “General Intangible” (including payment intangibles and software), “Instrument”, “Intellectual Property”, “Inventory” (including all goods held for sale or lease or to be furnished under a contract of service, and including returns and repossessions), “Investment Property” (including securities and securities entitlements), “Letter-of-Credit Right” (whether or not the letter of credit is evidenced by a writing), “Payment Intangibles”, “Proceeds”, “Promissory Notes”, “Securities Account”, and “Supporting Obligations”. Each of the foregoing defined terms shall include all of such items now owned, or hereafter acquired, by Debtor.

3. Collateral. The Collateral under this Security Agreement is:

3.1 All of Debtor’s assets. Collateral shall include all Accounts, accounts receivable, Inventory, Chattel Paper, Commercial Tort Claims of Debtor, Contracts, Deposit Accounts, Documents, Equipment, Fixtures, General Intangibles, (including, but not limited to, Payment Intangibles, all Patents, patent applications, Trademarks, trademark applications, Licenses, designs, drawings, technical knowledge and processes, marketing plans, customer lists, trade secrets, proprietary or confidential information, Copyrights, copyright applications, inventions (whether or not patentable), procedures, know-how, models, data and other trade secrets, and all embodiments thereof and all licenses pertaining thereto), Instruments, including, without limitation, Promissory Notes, Investment Property, Letter-of-Credit Rights, Supporting Obligations, and all other goods and personal property of Debtor, wherever located, whether tangible or intangible, and whether now owned or hereafter acquired, existing, leased or consigned by or to Debtor.

3.2 The Collateral includes all items described in this Section 3, whether now owned or hereafter at any time acquired by Debtor and wherever located, and includes all rents, profits and products thereof, all replacements, additions, accessions, substitutions, repairs, Proceeds and products relating thereto or therefrom, and all documents, ledger sheets and files of Debtor relating thereto. Proceeds hereunder include, without limitation, (i) whatever is now or hereafter received by Debtor upon the sale, exchange, collection or other disposition of any item

of Collateral, whether such proceeds constitute, Accounts, accounts receivable, General Intangibles, Instruments, securities, credits, documents, letters of credit, Chattel Paper, leases, Deposit Accounts, money, contract rights, goods or Equipment; (ii) any such items which are now or hereafter acquired by Debtor with any proceeds of the Collateral hereunder; and (iii) any insurance now or hereafter payable by reason of loss or damage to any item of the Collateral or any proceeds thereof.

4. Secured Obligations of Debtor. The Collateral secures and shall hereafter secure the payment of all principal and interest and the performance of all other obligations of Debtor to the Secured Party under the Note and obligations, if any, under Section 7.7 of the Purchase Agreement.

5. Representations of Debtor.

5.1 Except for the security interest granted to Secured Party under this Security Agreement, Debtor is the sole legal and equitable owner or, has the power to transfer or, as to Intellectual Property licensed from other persons, licensee of each item of the Collateral in which it purports to grant a security interest hereunder, having good and marketable title thereto or the power to transfer, free and clear of any and all liens and encumbrances.

6. Covenants of Debtor.

6.1 Debtor covenants that Debtor shall, promptly upon the reasonable request by the Secured Party, procure or execute, file and deliver any document, give any notices, execute and file any financing statements, mortgages or other documents, all in form and substance satisfactory to the Secured Party and take any other reasonable actions requested in writing by Secured Party to perfect or continue the perfection and priority of the Secured Party's security interest in the Collateral. Debtor shall protect the Collateral against the rights, claims, or interests of third persons or to effect the purposes of this Security Agreement, and shall pay all costs incurred in connection therewith.

6.2 Debtor will not (i) other than the security interest granted or created hereunder in favor of Secured Party, create, permit or suffer to exist, and will defend the Collateral against and take such other action as is necessary to remove any lien, security interest, encumbrance, claim or right, in or to the Collateral and will defend the right, title and interest of the Secured Party in and to any of Debtor's rights under the Collateral and in and to the proceeds and products thereof against the claims and demands of all persons whomsoever, or (ii) sell, assign (by operation of law or otherwise) or otherwise dispose of any of the Collateral, other than (a) the sale of Inventory, (b) the granting of non-exclusive Licenses or exclusive Licenses in the ordinary course of Debtor's business and (c) the disposal of worn-out or obsolete Equipment in the ordinary course of Debtor's business.

6.3 Debtor will advise the Secured Party promptly, in reasonable detail (i) of any lien, security interest, encumbrance or claim made or asserted against any of the Collateral, (ii) of any material change in the nature or type of the Collateral, and (iii) of the occurrence of any other event which would have a material adverse effect on the aggregate value of the Collateral or on the security interest created hereunder.

6.4 Debtor shall not incur any indebtedness for borrowed money other than (i) indebtedness to banks or commercial finance or other lending institutions regularly engaged in the business of lending money, and (ii) other indebtedness for borrowed money which is subordinated to the Note.

6.5 Debtor shall not change its jurisdiction of organization without thirty (30) days prior written notice to Secured Party. In the event Debtor relocates its chief executive office, its principal place of business or its records, or allows the relocation of any Collateral (except as allowed pursuant to Section 6.4 immediately above) from such address(es) provided to Secured Party, Debtor shall promptly, and in any event within thirty (30) days, provide to Secured Party notice of such relocation.

6.6 Debtor shall maintain insurance policies insuring the Collateral against loss or damage from such risks and in such amounts and forms and with such companies as are customarily maintained by businesses similar to Debtor.

6.7 Debtor shall pay promptly when due all property and other taxes, assessments and government charges or levies imposed upon, and all claims (including claims for labor, materials and supplies) against, the Equipment, Fixtures or Inventory, except to the extent the validity thereof is being contested in good faith and adequate reserves are being maintained in connection therewith.

6.8 Defense of Intellectual Property. Debtor shall use commercially reasonable efforts to (i) protect, defend and maintain the validity and enforceability of all Copyrights, Patents and Trademarks material to Debtor's business and (ii) detect infringements of all Copyrights, Patents and Trademarks material to Debtor's business.

7. Defaults and Remedies.

7.1 The occurrence of any one or more of the following events or conditions shall constitute a default under this Security Agreement:

(a) The failure by Debtor to pay any amount when due in connection with the Note that remains unpaid after five (5) days following the date thereof.

(b) The material breach of any covenant, agreement or representation set forth in this Security Agreement, the Purchase Agreement or the Note that remains uncured after thirty (30) days written notice thereof; provided, however, a breach of Section 6.5 hereof, subject to any notice and cure period within the applicable insurance policy, shall be an automatic default.

(c) Debtor commences any bankruptcy, reorganization or insolvency proceeding, under any federal, state or other law for the relief of debtors; or makes an assignment for the benefit of creditors or takes any action in furtherance of any of the foregoing.

(d) Debtor fails to obtain the dismissal, within sixty (60) days after the commencement thereof, of any bankruptcy, reorganization or insolvency proceeding, or other

proceeding under any law for the relief of debtors, instituted against it by one or more third parties.

(e) Debtor shall (i) default in the payment of principal or interest on any of its indebtedness of \$50,000 or more beyond the applicable period of grace, if any, or (ii) fail to observe or perform any covenant or agreement contained in any agreement(s) or instrument(s) relating to indebtedness of \$50,000 or more in the aggregate within any applicable grace period, or any other event shall occur, if the effect of such failure or other event is to accelerate, or to permit the holder of such indebtedness or any other person to accelerate, the maturity of \$50,000 or more in the aggregate of such indebtedness.

(f) A final judgment or judgments entered by a court of competent jurisdiction for the payment of money aggregating in excess of \$50,000 is or are outstanding against Debtor and any one such judgment in excess of \$50,000 has, or such judgments aggregating in excess of \$50,000 have, remained unpaid, unvacated, unbonded, or unstayed by appeal or otherwise for a period of ninety (90) days from the date of entry.

(g) If the provisions governing the security arrangements contained in this Security Agreement shall cease to be, or become known not to be, in full force and effect and enforceable in accordance with their terms, or the security interest purported to be created hereunder shall cease to be a valid and perfected security interest in the Collateral.

(h) Debtor shall generally fail to pay its obligations as they become due (subject to any applicable cure period); provided, however, that this Section 7.1(h) shall not apply to obligations that Debtor contests in good faith and by appropriate proceedings and for which Debtor maintains adequate reserves in accordance with generally accepted accounting principles.

(i) Any event of default under the Note.

7.2 Upon the occurrence of a default hereunder, the Secured Party may, at its option, without notice to or demand upon Debtor except as otherwise required under the Note, do any one or more of the following:

(a) Declare the entire outstanding principal balance of the Note, and all accrued and unpaid interest thereon, to be due and payable immediately, and upon any such declaration the entire outstanding principal balance of the Note, and such accrued and unpaid interest shall become and be immediately due and payable, without presentment, demand, protest or other notice, except for notice required under the Note, all of which are expressly waived, anything in the Note or in this Security Agreement to the contrary notwithstanding;

(b) Exercise any or all of the rights and remedies provided for the benefit of the Secured Party by the UCC; and

(c) Require Debtor to assemble the Collateral or any part thereof and make it available at one or more places as the Secured Party may designate, and to deliver possession of the Collateral or any part thereof to the Secured Party, who shall have full right to

enter upon any or all of Debtor's premises and property to exercise such Secured Party's rights hereunder.

7.3 (a) Secured Party shall have the right upon any public sale or sales, and, to the extent permitted by law, upon any private sale or sales, to purchase the whole or any part of the Collateral so sold, free of any right or equity of redemption, which equity of redemption Debtor hereby releases. To the maximum extent permitted by applicable law, Debtor waives all claims, damages, and demands against Secured Party arising out of the repossession, retention or sale of the Collateral. Debtor agrees that Secured Party need not give more than ten (10) days' notice of the time and place of any public sale or of the time after which a private sale may take place and that such notice is reasonable notification of such matters. Debtor shall remain liable for any deficiency if the proceeds of any sale or disposition of its Collateral are insufficient to pay all amounts to which Secured Party is entitled from Debtor

(b) Nothing in this Security Agreement is intended, nor shall it be construed to preclude the Secured Party from pursuing any other remedy provided by law or in equity for the collection of any or all of the obligations of Debtor under the Note or for the recovery of any other sum to which the Secured Party may be or become entitled in connection with a breach of this Security Agreement.

(c) Debtor hereby waives presentment, demand, protest or any notice (except as required hereunder, under the Note and to the extent permitted by applicable law) of any kind in connection with any Collateral.

(d) No course of dealing on the part of any holder of Note, nor any delay or failure on the part of any holder to exercise any of its rights, shall operate as a waiver of such right or otherwise prejudice such holder's rights, powers and remedies. If Debtor fails to pay, when due (subject to any applicable notice and cure period), the principal or the interest on any Note, Debtor will pay to each holder, to the extent permitted by law, on demand, all costs and expenses incurred by such holder in the collection of any amount due with respect to the Note, including reasonable legal fees incurred by such holder in enforcing the rights hereunder.

(e) No right or remedy conferred upon or reserved to the holders of the Note under this Security Agreement is intended to be exclusive of any other right or remedy, and every right and remedy shall be cumulative and in addition to every other right and remedy given hereunder or now and hereafter existing under applicable law. Every right and remedy given by this Security Agreement or by applicable law to the holders of Note may be exercised from time to time and as often as may be deemed expedient by the holders.

8. Miscellaneous Provisions.

8.1 Notices. All notices, requests and other communications to a party hereunder shall be in writing (including facsimile or similar electronic transmissions), shall refer specifically to this Security Agreement and shall be personally delivered or sent by facsimile or other electronic transmission, overnight delivery with a nationally recognized overnight delivery service or by registered or certified mail, return receipt requested, postage prepaid, in each case to the respective address specified on the signature page hereto (or such other address as may be specified in writing to the other parties hereto). Any notice or communication given in

conformity with this Section 8.1 shall be deemed to be effective when received by the addressee, if delivered by hand, facsimile or similar form of electronic transmission, one (1) day after deposit with a nationally recognized overnight delivery service and two (2) days after mailing, if mailed.

8.2 Headings. The various headings in this Security Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Security Agreement or any provision hereof.

8.3 Governing Law. This Security Agreement shall be construed in accordance with and all disputes hereunder shall be governed by the laws of the State of California as applied to contracts between California residents entered into in and to be performed wholly within California.

8.4 Amendments. This Security Agreement or any provision hereof may be changed, waived, or terminated only by a statement in writing signed by Debtor and the Secured Party.

8.5 Binding Agreement. All rights of the Secured Party hereunder shall inure to the benefit of its respective successors and assigns. The Secured Party shall not be entitled to assign any of its rights under this Security Agreement or the Note without the prior written consent of Debtor, except to an affiliate of Secured Party. Any purported assignment inconsistent with this provision shall, at the option of Debtor, be null and void.

8.6 Entire Agreement. This Security Agreement, together with any other agreement executed in connection herewith, is intended by the parties as a final expression of their agreement and is intended as a complete and exclusive statement of the terms and conditions thereof.

8.7 Attorneys' Fees. In any action or proceeding brought to enforce any provision of this Security Agreement, or to seek damages for a breach of any provision hereof, or where any provision hereof is validly asserted as a defense, the successful party shall be entitled to recover reasonable attorneys' fees in addition to any other available remedy.

8.8 Severability. If any provision of this Security Agreement should be found to be invalid or unenforceable to any extent, all of the other provisions shall nonetheless remain in full force and effect to the maximum extent permitted by law and the affected provision shall be construed as if it were written so as to be valid and enforceable to the maximum possible extent.

8.9 Counterparts. This Security Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which shall together constitute one and the same agreement.

8.10 Termination of Agreement. This Security Agreement shall continue in full force and effect and shall not terminate until the full and final payment, conversion of the Note in full and/or satisfaction in full. Upon such payment, conversion and/or satisfaction, the Secured Party shall sign and file a termination statement to Debtor for all of the Collateral hereunder which has not been sold, disposed of, retained or applied by the Secured Party in accordance


with the terms hereof. Secured Party agrees to execute any additional documents or instruments requested by Debtor to effect the termination of the security interest granted hereunder.

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IN WITNESS WHEREOF, the parties hereto have caused this Security Agreement to be duly executed the day and year first above written.

COMPANY:

TRADEBEAM, INC.,
a Delaware corporation

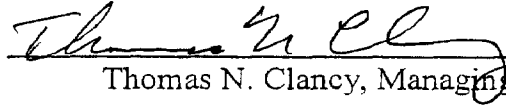
By: 
Graham R.F. Napier, Chief Executive Officer

Address: Two Waters Park Drive
Suite 100
San Mateo, CA 94403

SECURED PARTY:

ENTERPRISE PARTNERS V, L.P.

By: Enterprise Management Partners V, LLC, General
Partner

By: 
Thomas N. Clancy, Managing Director

Address: 2223 Avenida de la Playa
Suite 300
La Jolla, CA 92037

[COUNTERPART SIGNATURE PAGE TO SECURITY AGREEMENT]

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RECORDED: 01/29/2003

TRADEMARK
REEL: 002663 FRAME: 0177