

02-12-2003

U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

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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):

Lightchip, Inc.

2-10-03

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

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

3. Nature of conveyance:

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

Execution Date: October 8, 2002

2. Name and address of receiving party(ies):

Name: Confluent Photonics Corporation

Internal Address: _____

Street Address: 5 Industrial Way

City: Salem State: NH ZIP: 03079

- 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
(Designation 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)

76/118702

B. Trademark registration No.(s)

2543195 2628893 2629028

Additional numbers attached? Yes No

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

Name: Russell N. Rippamonti

Jenkins & Gilchrist, P.C.

Internal Address: _____

Street Address: 1445 Ross Avenue, Ste. 3200

City: Dallas State: Texas Zip: 75202-2799

6. Total number of applications and registrations involved: Four (4)

7. Total fee (37 CFR 3.41):

\$ 115.00

- Enclosed
- Authorized to be charged to deposit account.

(If check is not received with this correspondence or additional fees are required, please charge to deposit account 10-0447.)

8. Deposit Account number:

10-0447

(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.

Russell N. Rippamonti

Name of Person Signing

Russell Rippamonti
Signature

Feb 3, 2003

Date

Total number of pages comprising cover sheet: -1- Total Pages -10-

02/11/2003 DBYRNE 00000178 76118702

01 FC:8521
02 FC:8522

40.00 DP
75.00 DP

ASSET PURCHASE AGREEMENT

dated as of

October 8, 2002

between

CONFLUENT PHOTONICS CORPORATION

and

LIGHTCHIP, INC.

Exhibits and Schedules

Exhibits

- Exhibit A -- Form of Bill of Sale and Assignment
- Exhibit B -- Form of Patent and Patent Applications Assignment
- Exhibit B -- Form of Assignment and Assumption Agreement
- Exhibit C -- Form of OWM License Agreement

Schedules

- Schedule 2.01(a) Purchased Equipment
- Schedule 2.01(b) ~~Unlicensed Intellectual Property~~ ←
- Schedule 2.01(c) Licensed Intellectual Property
- Schedule 2.01(d) Purchased Inventory
- Schedule 2.01(f) Assumed Contracts
- Schedule 2.07 Tax Allocation Valuation Principles
- Schedule 3.03(c) Required Consents
- Schedule 3.05 Personal Property
- Schedule 3.07 Litigation
- Schedule 3.08 Exceptions regarding Assumed Contracts
- Schedule 3.09(a) Licenses, etc. affecting Licensed Intellectual Property
- Schedule 3.09(b) Certain exceptions regarding Purchased Intellectual Property
- Schedule 3.09(d) Assignment of Inventions
- Schedule 3.09(e) Source Code Escrows and similar agreements
- Schedule 3.11(a) Employees
- Schedule 3.11(b) Consultants and Independent Contractors
- Schedule 3.11(c) Releases of Non-Compete Covenants
- Schedule 3.11(d) Certain Employee Matters
- Schedule 3.11(e) Severance Pay, etc.
- Schedule 8.02(b) Tax Matters

ASSET PURCHASE AGREEMENT

AGREEMENT dated as of October 8, 2002 between Confluent Photonics Corporation, a Delaware corporation ("Buyer"), and LightChip, Inc., a Delaware corporation ("Seller").

RECITALS:

WHEREAS, Seller is in the business of developing, manufacturing, marketing and selling optical wavelength multiplexing and de-multiplexing products (the "Business"), such as the Optical Wavelength Router 2020/4040, the G4 100 GHz mux/demux, the G3 200 GHz mux/demux and the LGX systems, which consist of the components, electronics and software used to multiplex, de-multiplex, add/drop and condition multiple wavelengths in optical communications systems; and

WHEREAS, Buyer desires to purchase certain assets of the Business from Seller, and Seller desires to sell certain assets of the Business to Buyer, upon the terms and subject to the conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE I DEFINITIONS

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

"Affiliate" means, with respect to any Person, any other Person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the Person specified.

"Ancillary Agreements" means the Bill of Sale, Patent and Patent Applications Assignment, Assignment and Assumption Agreement, OWM License Agreement and any and all Conveyance Documents.

"Closing Date" means the date of the Closing.

"Intellectual Property" means all tangible or intangible proprietary information and materials, including without limitation:

(a) (i) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereon, and all patents, patent applications and invention disclosures, together with all reissuances, continuations, continuations-in-part, divisions, revisions, extensions and re-examinations thereof, (ii) all trademarks, services marks, trade dress,

logos, trade names, domain names, and corporate names, together with all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith, and all applications, registrations and renewals in connection therewith, (iii) all copyrights and all applications, registrations and renewals in connection therewith, (iv) all mask works and all applications, registrations and renewals in connection therewith, (v) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, methods, schematics, technology, technical data, engineering and other notebooks, designs, drawings, flowcharts, block diagrams, specifications, customer and supplier lists, customer data, pricing and cost information and business and marketing plans and proposals), and (vi) all software (in both source and object code form) and firmware (including data, databases and related documentation);

(b) all documents, records, instructions and files relating to design, end user documentation, manufacturing, quality control, sales, marketing or customer support for, and tangible embodiments of, all intellectual property described herein; and

(c) all licenses, agreements and other rights in any third party product or any third party intellectual property described in (a) and (b) above other than any "off-the-shelf" third party software or related intellectual property.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest, restriction or encumbrance of any kind in respect of such asset.

"Material Adverse Effect" means a material adverse effect on the business, assets, financial condition or results of operations of Seller or the Business taken as a whole.

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

"to Seller's Knowledge", "Known to Seller" and words of similar import means the knowledge of (i) each of Seller's officers and directors and (ii) Greg Capiello.

"Zygo Agreement" means the Product and Process Development Agreement dated as of July 21, 2000, between Seller and Zygo TeraOptix, Inc., together with the Statement of Work entitled "Zygo TeraOptix – Lightchip Development Project SOW 000721", entered into between Seller and Zygo TeraOptix, Inc. effective as of July 21, 2000.

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

<u>Term</u>	<u>Section</u>
Accounting Referee.....	2.07(c)
Allocation Statement.....	2.07(a)
Apportioned Obligation	8.03(b)
Assignment and Assumption Agreement.....	2.06(c)
Assumed Contracts	2.01(f)
Benefit Arrangement.....	9.01
Bill of Sale	2.06(b)
Closing	2.06
Code	8.01
Co-Employer.....	9.01
Conveyance Documents.....	2.06(b)
Damages.....	11.02(a)
Employee	9.01
Employee Plan	9.01
ERISA	9.01
ERISA Affiliate.....	9.01
Excluded Assets.....	2.02
Indemnified Party.....	11.03
Indemnifying Party.....	11.03
IRS	8.03(c)
Licensed Intellectual Property.....	2.01(c)
OWM License Agreement	2.06(c)
Personal Property.....	3.05
Pre-Closing Tax Period.....	8.01
Publicly Available Software	3.09(h)
Purchased Assets.....	2.01
Purchased Equipment.....	2.01(a)
Purchased Intellectual Property.....	2.01(c)
Purchased Inventory.....	2.01(d)
Purchased Signage	2.01(e)
Purchase Price.....	2.05
Required Consent.....	3.03(c)
Seller's Premises.....	2.01(e)
Tax	8.01
Tax Return	8.01
virus.....	3.09(g)
Unlicensed Intellectual Property.....	2.01(b)
Zygo Post-Closing Liabilities	2.03

**ARTICLE II
PURCHASE AND SALE**

2.01. Purchase and Sale. Upon the terms and subject to the conditions of this Agreement, Buyer agrees to purchase from Seller and Seller agrees to sell, transfer, assign and deliver to Buyer at Closing, all of Seller's right, title and interest in all of the assets identified in this Section 2.01 (collectively, the "Purchased Assets");

(a) the personal property listed on Schedule 2.01(a) (the "Purchased Equipment");

➤ (b) the Intellectual Property listed on Schedule 2.01(b) (the "Unlicensed Intellectual Property");

(c) the Intellectual Property listed on Schedule 2.01(c) (the "Licensed Intellectual Property," and together with the Unlicensed Intellectual Property, the "Purchased Intellectual Property");

(d) the inventory listed on Schedule 2.01(d) (the "Purchased Inventory");

(e) the signs bearing Seller's name that are located (i) at the front entrance of Seller's premises at Northwestern Drive, Salem, New Hampshire ("Seller's Premises") and (ii) on the monument located adjacent to Northwestern Drive at the drive-way leading to Seller's premises, each as is and as attached (the "Purchased Signage");

(f) Seller's right, title and interest under and in the contracts and agreements listed on Schedule 2.01(f) (the "Assumed Contracts");

(g) all of Seller's rights, claims, credits, causes of action or rights of set-off against third parties relating to the Purchased Assets, including, without limitation, unliquidated rights under manufacturers' and vendors' warranties;

(h) all books, records, files and papers, whether in hard copy or computer format, used by Seller or held by Seller for use in connection with the Business or relating to the Purchased Intellectual Property, including, without limitation, engineering notebooks and other engineering information, sales and promotional literature, manuals and data, sales and purchase correspondence, lists of present and former suppliers, lists of present and former customers, and all information relating to Taxes imposed on or with respect to the Purchased Assets (provided, however, that the parties agree that all items referenced in this subparagraph (h) that Seller through its reasonable efforts cannot physically deliver at the Closing shall be deemed delivered in the places and locations at which they are maintained in the ordinary course of business at Seller's Premises, and following the Closing Seller shall give Buyer and its representatives reasonable access to such places and locations at Seller's Premises in order to enable Buyer to take physical possession of such items); and

Schedule 2.01(b) – Unlicensed Intellectual Property

All of the following Intellectual Property, but excluding the Intellectual Property identified on Schedule 2.01(c) (and the Zygo Agreement, which is scheduled on Schedule 2.01(f)):

1. All inventions (whether patentable or unpatentable and whether or not reduced to practice) related to or used in connection with the Business, and all improvements thereon.

2. The patents and patent applications listed on Schedule 2.01(b)-1, together with all invention disclosures related thereto and all reissuances, continuations, continuations-in-part, divisions, revisions, extensions and re-examinations thereof.

3. (a) Seller's corporate name and all domain names; (b) all trademarks, services marks, trade dress, logos and trade names related to or used in connection with the Business; and (c) with respect to the any or all of the foregoing, all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith, and all applications, registrations and renewals in connection therewith. }

4. All copyrights related to or used in connection with the Business and all applications, registrations and renewals in connection therewith.

5. All mask works related to or used in connection with the Business and all applications, registrations and renewals in connection therewith.

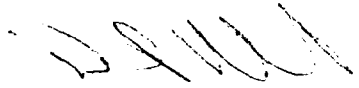
6. All trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, methods, schematics, technology, technical data, engineering and other notebooks, designs, drawings, flowcharts, block diagrams, specifications, customer and supplier lists, customer data, pricing and cost information and business and marketing plans and proposals) related to or used in connection with the Business.

7. All software (in both source and object code form) and firmware (including data, databases and related documentation) related to or used in connection with the Business.

IN WITNESS WHEREOF, the parties hereto here caused this Asset Purchase Agreement to be duly executed by their respective authorized officers as of the date first written above.

BUYER:

CONFLUENT PHOTONICS CORPORATION

By:  _____

David Hardwick
President & Chief Executive Officer

SELLER:

LIGHTCHIP, INC.

By: _____

Name: _____

Title: _____

9. IN WITNESS WHEREOF, the parties hereto here caused this Asset Purchase Agreement to be duly executed by their respective authorized officers as of the date first written above.


BUYER:

**CONFLUENT PHOTONICS
CORPORATION**

By: _____
David Hardwick
President & Chief Executive Officer

SELLER:

LIGHTCHIP, INC.

By: 
Name: Frances Katz
Title: President + CEO