

07-07-2003



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

6-30-03 RECORD 102489627 TRADEMARKS ONLY

DEPARTMENT OF COMMERCE J.S. Patent and Trademark Office

Tab settings

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

1. Name of conveying party(ies):

NOVA VISION, INC.

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

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

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other

Execution Date: JUNE 28, 2003

2. Name and address of receiving party(ies)

Name: VISION 2000 HOLDINGS LLC

Internal Address:

Street Address: 3209-128 GRESHAM LANE Rd

City: RALEIGH State: N.C. ZIP: 27615

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

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

A. Trademark Application No.(s)

B. Trademark Registration No.(s)

2,240,087

Additional number(s) attached Yes No

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

Name: THOMAS F. DUNN

Internal Address:

MORSE, VARNES-BROWN & PENNINGTON, P.C.

Street Address: 1601 TRAPERO Rd

City: WALTHAM State: MA Zip: 02451

6. Total number of applications and registrations involved:

1

7. Total fee (37 CFR 3.41) \$ 40.-

- 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 and any attached copy is a true copy of the original document.

THOMAS F. DUNN Name of Person Signing

Signature

JUNE 28, 2003 Date

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

7

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

07/02/2003 GT0N11 00000099 2240087

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TRADEMARK REEL: 002771 FRAME: 0608

Exhibit A

ASSIGNMENT OF TRADEMARK

This Assignment of Trademark ("Assignment") is executed as of June __, 2002, by NovaVision, Inc., a North Carolina corporation ("Assignor"), in favor of Vision 2000 Holdings, LLC, a North Carolina limited liability company ("Assignee").

Assignor hereby assigns, quitclaims and conveys to Assignee all of Assignor's right, title and interest in and to that U.S. Trademark Registration No. 2,240,087 for "NOVAVISION" and the goodwill associated therewith (the "Mark"). Assignor represents and warrants that to its knowledge it has committed, and has caused to be committed, no act or omission that has impaired or will impair the validity or effectiveness of the Mark. Except for the foregoing, this Assignment is made without any warranty, express or implied.

This Assignment is executed by FINOVA Mezzanine Capital Inc., formerly known as Sirrom Capital Corporation, which is the corporate successor of Sirrom Investments, Inc., as attorney-in-fact pursuant to certain security agreements executed by Assignor in favor of Sirrom Investments, Inc. This Assignment shall inure to the benefit of the heirs, successors and assigns of Assignee.

IN WITNESS WHEREOF, Assignor has executed this instrument as of the ___ day of June, 2002.

NOVAVISION, INC.

By: FINOVA MEZZANINE CAPITAL, INC.
formerly known as SIRROM CAPITAL CORPORATION and corporate successor to SIRROM INVESTMENTS, INC., as Attorney-in-Fact

By: _____

Title: _____

Exhibit B

CONSENT AND WAIVER

June 28, 2002

FINOVA Mezzanine Capital Inc. ("FINOVA") hereby consents to the voluntary surrender by Vision 2000 Holdings, LLC of its right, title and interest in and to the following trademarks:

U.S. Registration No. 2,031,704 of "NOVAVISION"

U.S. Registration No. 2,240,087 of "NOVAVISION"

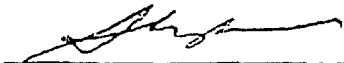
FINOVA further hereby waives and releases any interest in the foregoing trademarks.

FINOVA MEZZANINE CAPITAL INC.

By: _____

Title: _____

VISION 2000 HOLDINGS LLC

By: 

Title: President & Managing Partner

Exhibit CAffidavit of Nova 2000 Holdings LLC

Vision 2000 Holdings LLC is the successor in interest to Nova Vision, Inc., the current record owner of U.S. Reg. No. 2,031,704 for the NOVAVISION mark for use with "custom manufacture of contact lenses."

Signed under the penalty of perjury this 28 day of June, 2002.

VISION 2000 HOLDINGS LLC

BY: 
Allen Touch, President

MORSE,
BARNES-BROWN &
PENDLETON, P.C.

The Business Law Firm on Route 128

Reservoir Place • 1601 Trapelo Road • Waltham, MA 02451 • (781) 622-5930 • Fax (781) 622-5933 • email: mbbp@mbbp.com

Writer's email:
tfd@mbbp.com

June 21, 2002

Bernhard Sabel, President
NovaVision, Inc.
1601 Trapelo Road
Waltham, MA 02451

✓ Dr. Allen Touch
Vision 2000 Holdings LLC
3209-128 Gresham Lake Road
Raleigh, NC 27615

FINOVA Mezzanine Capital Inc.
c/o John Murdock, Esq.
Boult Cummings Conners Berry Plc
414 Union Street, Suite 1600
P.O. Box 198062
Nashville, TN 37219

Gentlemen:

This letter agreement ("Letter Agreement") sets forth the terms for the sale and transfer of (1) U.S. Trademark Reg. No. 2,031,704 for the exclusive right to use the NOVAVISION mark with "custom manufacture of contact lenses" (the "704 Mark") by Vision 2000 Holdings LLC ("Vision 2000") to NovaVision, Inc. ("NovaVision"), and (2) U.S. Trademark Reg. No. 2,240,087 for the exclusive right to use the NOVAVISION mark with "contact lenses" (the "087 Mark") by FINOVA Mezzanine Capital, Inc. ("Finova") to NovaVision.

Vision 2000 agrees and hereby does transfer and assign to NovaVision the 704 Mark, and Finova agrees and hereby does transfer and assign to Vision 2000 the 087 Mark, and NovaVision hereby agrees to purchase from Vision 2000 the 704 Mark and the 087 Mark, for the agreed upon purchase price (the "Purchase Price") in the form of a wire transfer, subject and pursuant to the terms hereof.

Vision 2000, Finova and NovaVision (the "Parties") hereby agree as follows:

I. ESCROW AND CLOSING MECHANICS:

1. The escrow agent is Thomas F. Dunn, Esq., of Morse, Barnes-Brown & Pendleton, P.C., Reservoir Place, 1601 Trapelo Road, Waltham, Massachusetts 02451 (voice: 781 622 5930; fax 781 622 5933; email: tfd@mbbp.com) (the "Agent");
2. Finova will deposit with the Agent a signed original of this Letter Agreement, an executed original of the Assignment of Trademark attached hereto as Exhibit A, and an executed original of the Consent and Waiver attached hereto as Exhibit B.
3. Vision 2000 will deposit with the Agent a signed original of this Letter Agreement, and an executed original of the Affidavit attached hereto as Exhibit C;
4. NovaVision will deposit with the Agent a signed original of this Letter Agreement and the Purchase Price;
5. Upon receipt of all items identified in paragraphs 2-4 above, the Agent shall file with the U.S. Patent and Trademark Office the Assignment of Trademark and the Consent and Waiver, and shall (i) wire two thousand dollars (2,000.00) to Finova, and (ii) wire the balance of the Purchase Price to Vision 2000.

Upon receipt of payment, Vision 2000 and Finova agree that neither will make any further use whatsoever of the term NOVAVISION, or any similar mark, whether as a domain name, trademark, business name, or otherwise.

Vision 2000 further agrees that it shall undertake all actions reasonably requested by assignee to perfect and/or maintain assignee's intellectual property rights in and to the Marks.

If the terms of this Letter Agreement have not been met by **July 1, 2002**, unless the Parties agree in writing to extend such date, this Letter Agreement shall terminate.

II. LIMITATION OF AGENT LIABILITY:

1. The Parties hereto agree that the duties of the Agent hereunder are solely ministerial in nature. The Agent shall not be deemed to be the agent of any Party hereto, nor to have any legal or beneficial interest in the Marks. The Parties agree that the Agent shall not be liable for any act or omission taken or suffered in good faith hereunder, unless such act or omission is a result of the Agent's gross negligence or willful misconduct.
2. The Agent shall not be obligated to transfer any Mark or other items held by the Agent hereunder, unless the provisions of this Agreement have been complied with by the Parties hereto. The Agent shall not be responsible in any manner for the validity or sufficiency of any notice received by the Agent hereunder from any Party, and believed by the Agent to be genuine. The Agent shall be fully protected and indemnified by Vision 2000 and NovaVision with respect to any action taken or suffered hereunder in good faith by the Agent, and each of

the Parties agrees to so indemnify the Agent and hold the Agent harmless from and against any and all costs, claims, expenses and liabilities (including reasonable attorneys' fees and expenses). The Agent may consult with counsel, which may be members of his firm, and shall be fully protected with respect to any action taken or suffered hereunder in good faith by the Agent in accordance with the opinion of such counsel. The Agent shall not be bound or in any way affected by any notice of any modification, cancellation, abrogation or rescission hereof, or of any fact or circumstances affecting or alleged to affect the rights and liabilities of the Parties hereto other than as expressly set forth herein, unless such modification, cancellation, abrogation, rescission, fact or circumstance is communicated to the Agent in writing; and not, in the case of any modification hereto, unless such modification shall be satisfactory to the Agent and assented to in writing by the Agent. The Agent may resign effective upon notice to the Parties.

Please sign this Letter Agreement if you agree to the terms above, and return both a fax copy and the originals to the Agent at the number and address provided herein.

AGREED TO AND ACCEPTED:

VISION 2000 HOLDINGS LLC

By: 
Allen Touch, President

NOVAVISION, INC

By: _____
Bernhard Sabel, President

FINOVA MEZZANINE CAPITAL, INC.

By: _____
John Murdock, Esq.
Counsel for Finova

MORSE, BARNES-BROWN & PENDLETON, P.C.

By: _____
Thomas F. Dunn
Attorney