

Form PTO-1594

(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

Tab settings ⇨ ⇨ ⇨

RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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):

NEXTNET WIRELESS, INC.

- Individual(s)
- General Partnership
- Corporation-State
- Other DELAWARE
- 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: 02/13/2004

2. Name and address of receiving party(ies)

Name: FLUX U.S. CORPORATION

Internal

Address:

Street Address: 2300 Carillon Point

City: Kirkland State: WA Zip: 98033

- 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
(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) _____
76092033

B. Trademark Registration No.(s) _____
2559297 2805186

Additional number(s) attached Yes No

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

Name: KRISTINE FYFE

Internal Address: DAVIS WRIGHT TREMAINE LLP

Street Address: 1501 FOURTH AVENUE, SUITE 2600

City: SEATTLE State: WA Zip: 98101

6. Total number of applications and registrations involved: 3

7. Total fee (37 CFR 3.41).....\$ 90.00

- Enclosed
- Authorized to be charged to deposit account

8. Deposit account number:

040258

DO NOT USE THIS SPACE

9. Signature.

KRISTINE FYFE

Name of Person Signing



Signature

FEBRUARY 19, 2004

Date

Total number of pages including cover sheet, attachments, and document: 10

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

CH \$90.00 040258 76092033

INTELLECTUAL PROPERTY SECURITY AGREEMENT

THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT, dated as of February 13, 2004 (as amended, supplemented or otherwise modified from time to time, this "*Intellectual Property Security Agreement*"), is made by NEXTNET WIRELESS, INC., a Delaware corporation (the "*Grantor*") in favor of FLUX U.S. CORPORATION, a Delaware corporation ("*Purchaser*").

WHEREAS, Grantor has entered into that certain Secured Promissory Note Purchase Agreement, dated as of the date hereof (as amended, supplemented, replaced or otherwise modified from time to time, the "*Purchase Agreement*"), with Purchaser. Capitalized terms used and not defined herein have the meanings given such terms in the Purchase Agreement.

WHEREAS, pursuant to the Purchase Agreement, Grantor has agreed to issue and sell to Purchaser and Purchaser has agreed to purchase, the Note upon the terms and subject to the conditions set forth therein.

WHEREAS, it is a condition precedent to the obligation to enter into the transactions contemplated thereby that the Grantor shall have executed and delivered that certain Security Agreement, dated as of the date hereof, in favor of the Lender (as amended, supplemented, replaced or otherwise modified from time to time, the "*Security Agreement*").

WHEREAS, under the terms of the Security Agreement, the Grantor has granted a security interest in certain Property, including, without limitation, certain Proprietary Rights of the Grantor to Purchaser, and has agreed as a condition thereof to execute this Intellectual Property Security Agreement for recording with the United States Patent and Trademark Office, the United States Copyright Office, and other applicable Governmental Authorities.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor agrees as follows:

1. **GRANT OF SECURITY.** Grantor hereby grants to the Purchaser a continuing security interest in and to all of Grantor's right, title and interest, whether now owned or existing or hereafter acquired or arising, in and to the following (collectively referred to as, the "*Collateral*"), as collateral security for the prompt and complete payment and performance when due (whether at the stated maturity, by acceleration or otherwise) of all of Grantor's obligations under the Purchase Agreement and the Note:

(a) (i) all trademarks, service marks, trade names, corporate names, company names, business names, trade dress, trade styles, logos, or other indicia of origin or source identification, trademark and service mark registrations, and applications for trademark or service mark registrations and any renewals thereof in the U.S. or any foreign jurisdiction, including, without limitation, each registration and application identified in Schedule I; (ii) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof; (iii) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all licenses entered into in connection therewith, and damages and payments for past, present or future infringements

thereof); and (iv) all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto, together in each case with the goodwill of the business connected with the use of, and symbolized by, each of the above (collectively, the "*Trademarks*");

(b) (i) all patents, patent applications and patentable inventions in the U.S. or any foreign jurisdiction, including, without limitation, each patent and patent application identified in Schedule I; (ii) all inventions and improvements described and claimed therein; (iii) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof; (iv) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all licenses entered into in connection therewith, and damages and payments for past, present or future infringements thereof); and (v) all reissues, divisions, continuations, continuations-in-part, substitutes, renewals, and extensions thereof, all improvements thereon and all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto (collectively, the "*Patents*");

(c) (i) all copyrights, whether or not the underlying works of authorship have been published, and all works of authorship and other intellectual property rights therein, all copyrights of works based on, incorporated in, derived from or relating to works covered by such copyrights, all right, title and interest to make and exploit all derivative works based on or adopted from works covered by such copyrights, and all copyright registrations and copyright applications in the U.S. or any foreign jurisdiction, and any renewals, restorations or extensions thereof, including, without limitation, each registration and application identified in Schedule I; (ii) the rights to reproduce, print, publish and distribute and to publicly display and perform any of the foregoing and to sell, rent, lease or lend copies of the foregoing and to sublicense to third parties the foregoing rights, including the right to sublicense to further third parties; (iii) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof; (iv) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all licenses entered into in connection therewith, and damages and payments for past, present or future infringements thereof); and (v) all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto (collectively, the "*Copyrights*");

(d) (i) all trade secrets and all confidential and proprietary information, including know-how, manufacturing and production processes and techniques, inventions, research and development information, technical data, financial, marketing and business data, pricing and cost information, business and marketing plans, and customer and supplier lists and information, security procedures and devices; (ii) right to sue or otherwise recover for any and all past, present and future infringements and misappropriations thereof; (iii) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all licenses entered into in connection therewith, and damages and payments for past, present or future infringements or misappropriations thereof); and (iv) all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto (collectively, the "*Trade Secrets*");

(e) (i) all licenses or agreements, whether written or oral, providing for the grant by or to Grantor of: (A) any right to use any Trademark, (B) any right to manufacture, use or sell

any invention covered in whole or in part by a Patent, (C) any right under any Copyright including, without limitation, the grant of rights to reproduce, manufacture, distribute, publicly display or perform, exploit and sell, rent, lease or lend any Copyrights or any derivative works of any Copyright including, without limitation, any of the foregoing identified in Schedule I, and (D) any right to use any Trade Secret; (ii) the right to sue or otherwise recover for any and all past, present and future infringements and misappropriations of any of the foregoing; (iii) all income, royalties, damages and other payments now and hereafter due and/or payable with respect thereto (including, without limitation, payments under all licenses entered into in connection therewith, and damages and payments for past, present or future infringements thereof); and (iv) all other rights of any kind whatsoever of Grantor accruing thereunder or pertaining thereto; and

(f) any and all proceeds of the foregoing.

2. **GRANT OF NON-EXCLUSIVE LICENSE.** Grantor hereby grants to Purchaser a non-exclusive royalty-free license or other right to use, without charge, Grantor's Proprietary Rights, labels and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral in exercising Purchaser's rights under the Security Agreement and the Purchase Agreement and in connection with such action, Grantor's rights under all licenses and all franchise agreements shall inure to the Purchaser's benefit.

3. **RECORDATION.** Grantor authorizes and requests that the Register of Copyrights, the Commissioner of Patents, and the Commissioner of Trademarks and any other applicable government officer in the U.S. or any foreign jurisdiction record this Intellectual Property Security Agreement.

4. **EXECUTION IN COUNTERPARTS.** This Intellectual Property Security Agreement may be executed in any number of counterparts (including by telecopy), each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

5. **GOVERNING LAW.** THIS INTELLECTUAL PROPERTY SECURITY AGREEMENT SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAW OF THE STATE OF WASHINGTON.

6. **CONFLICT PROVISION.** This Intellectual Property Security Agreement has been entered into in conjunction with the provisions of the Security Agreement and the Purchase Agreement. The rights and remedies of each party hereto with respect to the security interest in the Collateral granted herein are without prejudice to, and are in addition to those set forth in the Security Agreement and the Purchase Agreement, all terms and provisions of which are incorporated herein by reference. In the event that any provisions of this Intellectual Property Security Agreement are in conflict with the Security Agreement or the Purchase Agreement, the provisions of the Security Agreement or the Purchase Agreement shall govern.

(Signature Page Follows)


FROM FAEGRE & BENSON

(THU) 2.12.04 13:55/ST. 13:29/NO. 4862016843 P 6

IN WITNESS WHEREOF, each of the undersigned has caused this Intellectual Property Security Agreement to be duly executed and delivered as of the date first above written.

"Grantor"

NEXNET WIRELESS, INC., a Delaware corporation

By: 
Name: Guy J. Kelnhofer
Title: President + CEO

SCHEDULE I
to
INTELLECTUAL PROPERTY SECURITY AGREEMENT

Trademarks

| Mark | Country | Reg./Appl. No. | Our File | Status |
|---------|-------------|----------------|-------------|---|
| NEXTNET | U.S. | 2,559,297 | 2537.04US02 | Mark was registered on April 9, 2002. Section 8&15 deadline is 4/9/08. |
| NEXTNET | Brazil | 825658128 | 2537.04BR01 | Mark published 9/2/03. Mark will proceed to examination. |
| NEXTNET | Canada | TMA 561079 | 2537.04CA01 | Mark was registered on April 30, 2002. Renewal deadline is 4/30/17. |
| NEXTNET | Europe | 1,053,016 | 2537.04EU01 | Opposition by Sadis SL decided in favor of Next Net Wireless. Opposition by Robert Fried decided in favor of Nextnet Wireless for data communication services and consulting, computer programming and related services and in favor of Robert Fried for computer hardware and software for the transmission of wireless data. Appeal of adverse portion of the decision was filed. Waiting for decision on appeal. |
| NEXTNET | India | 1220883 | 2537.04IN01 | Response to Office Action filed on 11/5/03. Hearing scheduled for 2/10/04. |
| NEXTNET | Malaysia | 200307165 | 2537.04MY01 | Application was filed on 6/13/03. Awaiting first Office Action. |
| NEXTNET | Mexico | 614355 | 2537.04MX01 | Application was filed on 8/18/03. Awaiting first Office Action. |
| NEXTNET | Philippines | 4200300069-48 | 2537.04PH01 | Application was filed on August 4, 2003. Awaiting |

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| | | | | first Office Action. |
| EXPEDIENCE | U.S. | 2,805,186 | 2537.13US01 | Registered on 1/13/04. Section 8&15 due on 1/13/10. |
| EXPEDIENCE | Brazil | 825658136 | 2537.13BR01 | Mark published 9/2/03. Mark will proceed to examination. |
| EXPEDIENCE | India | 1221130 | 2537.13IN01 | Response to Office Action filed on 11/5/03. Hearing scheduled for 2/10/04. |
| EXPEDIENCE | Malaysia | 2003-11261 | 2537.13MY01 | Application was filed on 9/2/03. Awaiting first Office Action. |
| EXPEDIENCE | Mexico | 616787 | 2537.13MX01 | Application was filed on 8/28/03. Awaiting first Office Action. |
| EXPEDIENCE | Philippines | 420030006872 | 2537.13PH01 | Application was filed on 8/1/03. /Awaiting first Office Action. |
| NEXTNET WIRELESS and Design | U.S. | 76/092,033 | 2537.14US01 | Application is suspended based upon earlier filed application for the mark NEXTNET (75/809,632) for business-related computer software, providing internet messaging services and web site design. This cited application has also been suspended. Without obtaining a copy of the file history of the cited application, we are unable to know the basis for this suspension but it is likely because of your company's registration for the mark NEXTNET. In light of the current registration for the mark NEXTNET, it is our opinion that this application will also be successfully registered. |
| EXPEDIENCE | China | 3,438,004 | 52652-279281 | Application pending |
| EXPEDIENCE (Chinese transliteration) | China | 3,452,217 | 52652-280989 | Application abandoned. New transliteration to be chosen, and new application filed. |
| NEXTNET | China | 3,438,029 | 52652-279283 | Application pending |
| NEXTNET | China | 3,452,216 | 52652-280988 | Application pending |

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| (Chinese transliteration) | | | | |
| NEXTNET WIRELESS & Design | China | 3,438,028 | 52652-279282 | Application pending |

Patents

| Title | Country | Patent/Appl. No. | Our File | Status |
|---|----------------------------|------------------|-------------|---|
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | U.S. | 09/694,766 | 2537.01US02 | All filing requirements have been completed; still awaiting review by U.S. Patent Office as of 02-09-04. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | International application. | PCT/US00/29216 | 2537.01WO01 | National phase applications filed; file closed. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Australia | 12259/01 | 2537.01WOAU | Filed 4-30-02; Exam requested 3-18-03; instructions to assoc. 01-21-04 to file two divisional applns. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Brazil | PI 0014971-3 | 2537.01WOBR | Filed 4-22-02; 4 th annuity fee due 10-23-03; exam requested 8-7-03; await next action from assoc. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Canada | 2,388,465 | 2537.01WOCA | Filed 4-19-02; Exam Requested at filing; await next action from assoc. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | China | 00817577.2 | 2537.01WOCN | Filed 6-21-02; Exam Requested 7-26-02; nothing pending at this time. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Europe | 00973788.3 | 2537.01WOEP | Filed 5-14-02; may need to file divisional applications prior to patent grant; coverage of the |

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| | | | | application extended to Hong Kong. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Hong Kong | 03100694.6 | 2537.01EPHK | Based on EP app; filed on .1-27-03; published on 6-13-03; await next action from assoc. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Israel | 149269 | 2537.01WOIL | Filed 5-22-02; nothing pending at this time. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | India | IN/PCT/2002 /00704/CHE | 2537.01WOIN | Filed 5-13-02; Exam not Requested. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | South Korea | 10-2002- 7005184 | 2537.01WOKR | Filed 4-22-02; Exam not Requested, deadline is 10-23-05. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Mexico | PA/Aa/2002/ 004024 | 2537.01WOMX | Filed 4-22-02; Novelty examination requested at time of filing. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | New Zealand | 518729 | 2537.01WONZ | Originally filed 5-2- 02; four divisionals filed July 2003. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | New Zealand | Unknown | 2537.01WONZ02 | Divisional filed July 2003, nothing pending at this time. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | New Zealand | Unknown | 2537.01WONZ03 | Divisional filed July 2003, nothing pending at this time. |

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| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | New Zealand | Unknown | 2537.01WONZ04 | Divisional filed July 2003, nothing pending at this time. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | New Zealand | Unknown | 2537.01WONZ05 | Divisional filed July 2003, nothing pending at this time. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Philippines | 1-2002- 000297 | 2537.01WOPH | Filed 4-22-02; published on 9-3-03; Request Exam due 3/3/04; instructions to assoc. to req. exam filed 10/14/03. |
| Fixed OFDM Wireless MAN Utilizing CPE Having Internal Antenna | Russia | 2002113370 | 2537.01WORU | Filed 5-21-02; Exam requested on 8-7-03. |