

11/18/03

11-18-2003



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

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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):

ATHENAHEALTH, INC.

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

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

2. Name and address of receiving party(ies)

Name: ORIX VENTURE FINANCE LLC

Internal Address: 10th Floor

Street Address: 1177 Avenue of the Stars

City: New York State: NY Zip: 10036

Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State \_\_\_\_\_  
 Other Limited Liability Company

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: 11/04/03

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

A. Trademark Application No.(s) \_\_\_\_\_

B. Trademark Registration No.(s) Reg. # 2,737,126;  
Reg. # 2,737,212

Additional number(s) attached  Yes  No

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

Name: Federal Research Corporation

Internal Address: \_\_\_\_\_

Attn: Penelope Agodoa

Street Address: 1030 15th Street, NW,  
Suite 920

City: Washington State: DC Zip: 20005

6. Total number of applications and registrations involved: 2

7. Total fee (37 CFR 3.41).....\$ 65.00

Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number: \_\_\_\_\_

DO NOT USE THIS SPACE

9. Signature.

Wendy Ballot Huey      Wendy Ballot Huey      November 17, 2003  
 Name of Person Signing      Signature      Date

Total number of pages including cover sheet, attachments, and document: 7

11/19/2003 LMUELLER 00000077 2737126 01 FC:8521 40.00 OP 02 FC:8522 25.00 OP

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

TRADEMARK REEL: 002865 FRAME: 0346

## INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement is entered into as of **November 4, 2003** by and between **ORIX VENTURE FINANCE LLC**, a Delaware limited liability company, as agent ("ORIX") and **ATHENAHEALTH, INC.**, a Delaware corporation ("Grantor"), with reference to the following facts:

A. Silicon Valley Bank ("SVB"), ORIX Venture Finance LLC (in its individual capacity and as agent for itself and SVB), SVB as payment agent, and Grantor are parties to that certain Loan and Security Agreement of dated November 4,, 2003 (as amended from time to time, the "Loan Agreement"). (Capitalized terms used herein have the meaning assigned in the Loan Agreement.)

B. Pursuant to the Loan Agreement, Grantor has granted to ORIX a security interest in all of the Collateral. The Collateral includes without limitation all Intellectual Property (including without limitation the Intellectual Property described herein).

Grantor agrees as follows:

1. To secure performance of all of its "Obligations" as defined in the Loan Agreement, Grantor grants to ORIX a security interest in all of Grantor's right, title and interest in Grantor's Intellectual Property, including without limitation (i) the trademarks and servicemarks listed on Schedule A hereto, whether registered or not, and all applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks, and (ii) the patents and patent applications listed on Schedule B hereto and all like protections including, without limitation, all improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, and (iii) all copyrights, maskworks, software, computer programs and other works of authorship listed on Schedule C hereto, and all extensions and renewals thereof, and (iv) all rights to recover for past or future infringement of any of the foregoing, and (v) all right, title and interest in and to any and all present and future license agreements with respect to any of the foregoing, and (vi) all present and future accounts, accounts receivable and other rights to payment arising from, in connection with or relating to any of the foregoing.

2. Grantor represents and warrants that (i) listed on Schedule A hereto are all trademark registrations and pending registrations owned or controlled by Grantor or licensed to Grantor, (ii) listed on Schedule B are all patents and patent applications owned or controlled by Grantor or licensed to Grantor, and (iii) listed on Schedule C are all copyrights, software, computer programs, mask works, and other works of authorship owned or controlled by Grantor which are registered with the United States Copyright Office

3. Grantor shall not, hereafter, register any maskworks, software, computer programs or other works of authorship subject to United States copyright protection with the United States Copyright Office without first complying with the following: (i) providing Secured Party with at least 15 days prior written notice thereof, (ii) providing Secured Party with a copy of the application for any such registration and (iii) executing and filing such other instruments, and

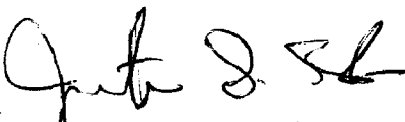
taking such further actions as Secured Party may reasonably request from time to time to perfect or continue the perfection of Secured Party's interest in the Collateral, including without limitation the filing with the United States Copyright Office, simultaneously with the filing by Grantor of the application for any such registration, of a copy of this Agreement or a Supplement hereto in form acceptable to Secured Party identifying the maskworks, software, computer programs or other works of authorship being registered and confirming the grant of a security interest therein in favor of Secured Party

4. This Agreement is being executed and delivered pursuant to the Loan Agreement; nothing herein limits any of the terms or provisions of the Loan Agreement, and ORIX's rights hereunder and under the Loan Agreement are cumulative. This Agreement, the Loan Agreement and the other Loan Documents set forth in full all of the representations and agreements of the parties with respect to the subject matter hereof and supersede all prior discussions, oral representations, oral agreements and oral understandings between the parties. This Agreement may not be modified or amended, nor may any rights hereunder be waived, except in a writing signed by the parties hereto. In the event of any litigation between the parties based upon, arising out of, or in any way relating to this Agreement, the prevailing party shall be entitled to recover all of his costs and expenses (including without limitation attorneys' fees) from the non-prevailing party. This Agreement and all acts, transactions, disputes and controversies arising hereunder or relating hereto, and all rights and obligations of ORIX and Grantor shall be governed by, and construed in accordance with the internal laws (and not the conflict of laws rules) of the State of California.

Address of Grantor:

ATHENAHEALTH, INC.

One Moody St.  
Waltham, Massachusetts

By   
Title CEO

Address of ORIX:

ORIX Merchant Banking LLC, as agent

1177 Avenue of the Americas, 10th Floor  
New York, NY 10036

By \_\_\_\_\_  
William Bishop,  
Principal

Form: Version-1

taking such further actions as Secured Party may reasonably request from time to time to perfect or continue the perfection of Secured Party's interest in the Collateral, including without limitation the filing with the United States Copyright Office, simultaneously with the filing by Grantor of the application for any such registration, of a copy of this Agreement or a Supplement hereto in form acceptable to Secured Party identifying the maskworks, software, computer programs or other works of authorship being registered and confirming the grant of a security interest therein in favor of Secured Party

4. This Agreement is being executed and delivered pursuant to the Loan Agreement; nothing herein limits any of the terms or provisions of the Loan Agreement, and ORIX's rights hereunder and under the Loan Agreement are cumulative. This Agreement, the Loan Agreement and the other Loan Documents set forth in full all of the representations and agreements of the parties with respect to the subject matter hereof and supersede all prior discussions, oral representations, oral agreements and oral understandings between the parties. This Agreement may not be modified or amended, nor may any rights hereunder be waived, except in a writing signed by the parties hereto. In the event of any litigation between the parties based upon, arising out of, or in any way relating to this Agreement, the prevailing party shall be entitled to recover all of his costs and expenses (including without limitation attorneys' fees) from the non-prevailing party. This Agreement and all acts, transactions, disputes and controversies arising hereunder or relating hereto, and all rights and obligations of ORIX and Grantor shall be governed by, and construed in accordance with the internal laws (and not the conflict of laws rules) of the State of California.

Address of Grantor:

ATHENAHEALTH, INC.

One Moody St.  
Waltham, Massachusetts

By \_\_\_\_\_  
Title \_\_\_\_\_

Address of ORIX:

ORIX Merchant Banking LLC, as agent

1177 Avenue of the Americas, 10th Floor  
New York, NY 10036

By William Bishop  
William Bishop,  
Principal

Form: Version-1

SCHEDULE A

Trademarks

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
Mark is "ATHENANET". International classes 35 and 38 (application under former name of company: Athena Healthcare Incorporated)	Reg# 2737126	Reg date 2003-7-15
Mark is "ATHENAHEALTH.COM". International classes 35 and 38 (application under former name of company: Athena Healthcare Incorporated)	Reg# 2737212	Reg date 2003-7-15

SCHEDULE B

Patents and Patent Applications

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
Practice Management and Billing Automation System	09/921,654	August 3, 2001

SCHEDULE C

Copyrights

<u>Description</u>	<u>Registration/ Application Number</u>	<u>Registration/ Application Date</u>
Computer program (consisting of then-current original athenaNet application software) (application under former name of company: Athena Healthcare Incorporated)	TXu 726-591	August 7, 1999