07-15-2004 RECOR U.S. DEPARTMENT OF COMMERCE FORM PTO-(Rev. 03/01) Patent and Trademark Office OMB No. 0651-0027 (exp. 05/31/2002) 102750239 To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof. Name and address of receiving party(ies): Name of conveying party(ies): Name: Silicon Valley Bank Loudeye Technologies, Inc. internal Address: HA155 ☐ Individual(s) ☐ General Part Association General Partnership Limited Partnership Street Address: 3003 Tasman Drive □ Corporation-State DE Other Additional name(s) of conveying party(les) attached? Yes No City: Santa Clara State: CA ZIP: 95054 Nature of conveyance: Individual(s) citizenship Assignment Association General Partnership Security Agreement Change of Name Limited Partnership Corporation-State-Delaware Other: Record to remove registration 2474939 from Security Other Agreement recorded in Reel/Frame 002815/0262 and replace with registration 2474918. If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No Additional name(s) & address(es) attached? 🔲 Yes 🛛 No Execution Date: 07/02/2004 Application number(s) or registration number(s): A. Trademark Application No.(s) B. Trademark No.(s) 2474918 Additional numbers attached? Yes No 6. Total number of applications and registrations involved: 1 5. Name and address of party to whom correspondence concerning document should be mailed: Name: Sillcon Valley Bank Total fee (37 CFR 3.41); \$0 Internal Address: Loan Documentation HA155 Enclosed Street Address: 3003 Tasman Dr. Authorized to be charged to deposit account City: Santa Clara State: Ca ZIP: 95054 8. Deposit account number: (Attach duplicate copy of this page if paying by deposit account) 07/19/2004 GTON11 00000036 2474918 DO NOT USE THIS SPACE 40.00 OP 120,00 OP 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. 07/14/2004 Maribel Arteaga Name of Person Signing Date

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

Mail documents to be recorded with required cover sheet information to:

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



	OIP
	MB 58.
A STATE OF THE STA	FORM PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 05-24-05)
	To the Honorable Co 1. Name of conveying party(less LOUDEYE CORPORATION

, <u>(</u> 2)	
MB 5 8.000 =	09-04-2003
REI	

FORM P	TO-1594	13	REI	! (£2)() ((2)) @21)(£ ((22) 2)(()	: BLE :: 11	81 18115 11815 1911 1891		U.S. DEF	PARTMENT C	OF COMMER	PCE
(Rev. 03/	/01)	Etter	m NA						Patent and Tr	ademark Of	ffice
OMB No.	. 0651-0027	(exp. 05)	2404	1005	A A A	100					
 	72.11	a Hogosphi	Commissiones	1025	418	329	etteched origin	al dancerate	ne nonu 4h		
1. Name		ying party		-atento and 1/adema	rks: Pl	2. Name and a	ddress of rec	eiving party/	os).		
1			•	8-29-0	۱ (T			• • • •	0 5).		
j		PORATION		•		Name: Silico Internal Addre					
Indiv	/idual(s)		Associa		(.					
		iership State-DELA		l Partnership		Street Address	s: 3003 Tast	man Drive			
Othe		HAIB-DELA	AA YUE		- 1						
1				_							
Addition	nal name(s) of conve	ying party(ies) at	tached? Tyes 🖸	No	City: Santa C	lara	State: CA	2	ZIP: 9505	4
3. Natur	re of conv	reyance:			1			١.			
<u> Па</u> -	ignment		□Merger			Individual(•			
\	Amnam		□IAIG! Âg!			Associatio					
⊠Secu	urity Agree	ment	☐ Change of N	ame		Limited Pa	artnership				
	0.7					Corporation	on-State <u>-Dela</u>	ware			
J Oine	°′			-		Other If assigned is no	ot domicited In t	the United Stat	es, a domesti	c represents	مدزاه
_	_					designation is a	ttached: 🔲 Ye	as 🔲 No			7114Q
Executi	on Date: (06/27/03			لـــــ	Additional name	(s) & address(es) attached? [Yes 🛭 No		
A. Annli	ication nu	mhar/e\ c=	registration numb	nor/e\:							
L. Abbii	JANOII IIU	Der(e) Ur	regionation numb	ν ο ι (ο <i>)</i> .							
A. Trad	lemark Ap	plication N	lo.(s)			B. Trademark	k No.(s)				
		8/267,205				2,586,151		· · · · · · · · · · · · · · · · · · ·			
75/874.		5/232,031				2,651,155	2,474,918				
76/125,			·			2,528,684 2,630,751	2,523,939				
78/267,						2,839,504	2.474.918				
78/267,						2,491,937					
				Additional numbe	rs att						
 						, 					
5. Nam	e and add	ress of pa	rty to whom corre	spondence		6. Total numb	er of applicat	ions and regi	strations inv	olver'-19	
concern	ning docu	ment shoul	ld be mailed:			1			a 1 19 11 17		
Name	Silicon V	ailey Bank	•								
1.141110.1	CHIOOH V	and Daile	•			7. Total fee (3	7 CER 3 411-	•	\$400.00		
internal	Internal Address: Loan Documentation HA155				☑ Enclosed	OI II 3.41):	1	\$ <u>490.00</u>			
C15	Andria, - ·	0000 =									
Street A	Hadress:	3003 Tasn	nan Dr.			Authorize	d to be charge	ed to deposit	account		
City: Si	anta Clara	a	State: Ca	ZIP: 95	5054						
		-	July, Ve	AIF. 93	JU34	8. Deposit ac	count number	-			
						(Attach duplicat			y deposit acc	ount)	
-				DO NOT	USE	THIS SPACE					
											
1/04/2003	PITIBLE	00000149 7	anny \								
1 FC:1521			10.00 CD	1							
FG: 4622			-/450.00 00	1							
9. State	ment and	signature	. [
1		_	- {								
io ine b	est of my k	Knowiedge a	na belief, the forego	oing information is tru	e and	correct and any	attached copy	is a true copy o	of the original	document.	
Mari	hel N	Aene.a		n 1 1 0	3 1-	T			0 - 1-	2	
Name	DE AV	TLUUU Siooma	-	Maubel	dr.	eage			8/18/0	>	
		ArunA		۱ 8	agnat	rie ()			Date		
KW			Total number of	of pages including oo	ver she	eet, attachments	, and documen	nt: 1b			
			Mail doc	uments to be recorded	d with	required cover si	heet information	n to:			

INTELLECTUAL PROPERTY SECURITY AGREEMENT



This Intellectual Property Security Agreement (this "IP Agreement") is made as of the Effective Date, by and between Loudeye Corp., a Delaware corporation ("Grantor"), and Silicon Valley Bank, a California banking corporation ("Bank").

RECITALS

- A. Bank will make advances to Grantor ("Advances") as described in the Accounts Receivable Financing Agreement (the "Financing Agreement"), but only if Grantor grants Bank a security interest in its Copyrights, Trademarks, Patents, and Mask Works. Defined terms used but not defined herein shall have the same meanings as in the Financing Agreement.
- B. Pursuant to the terms of the Financing Agreement, Grantor has granted to Bank a security interest in all of Grantor's right title and interest, whether presently existing or hereafter acquired in, to and under all of the Collateral,

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged and intending to be legally bound, as collateral security for the prompt and complete payment when due of Grantor's Indebtedness under the Financing Agreement, Grantor hereby represents, warrants, covenants and agrees as follows:

- 1. Grant of Security Interest. As collateral security for the prompt and complete payment and performance of all of Grantor's present or future Indebtedness, obligations and liabilities to Bank, Grantor hereby grants a security interest in all of Grantor's right, title and interest in, to and under its Intellectual Property Collateral (all of which shall collectively be called the "Intellectual Property Collateral"), including, without limitation, the following:
- (a) Any and all copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and derivative work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including without limitation those set forth on Exhibit A attached hereto (collectively, the "Copyrights");
- (b) Any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;
- (c) Any and all design rights which may be available to Grantor now or hereafter existing, created, acquired or held;
- (d) All patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, including without limitation the patents and patent applications set forth on <u>Exhibit B</u> attached hereto (collectively, the "Patents");
- (e) Any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Grantor connected with and symbolized by such trademarks, including without limitation those set forth on Exhibit C attached hereto (collectively, the "Trademarks")
- (f) All mask works or similar rights available for the protection of semiconductor chips, now owned or hereafter acquired, including, without limitation those set forth on Exhibit D attached hereto (collectively, the "Mask Works");

FIN://128950 Loudeye IP Agreement

1



- (g) Any and all claims for damages by way of past, present and future infringements of any of the rights included above, with the right, but not the obligation, to sue for and collect such damages for said use or infringement of the intellectual property rights identified above;
- (h) All licenses or other rights to use any of the Copyrights, Patents, Trademarks, or Mask Works and all license fees and royalties arising from such use to the extent permitted by such license or rights;
- (i) All amendments, extensions, renewals and extensions of any of the Copyrights, Trademarks, Patents, or Mask Works; and
- (j) All proceeds and products of the foregoing, including without limitation all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.
- 2. <u>Authorization and Request.</u> Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this IP Agreement.
 - Covenants and Warranties. Grantor represents, warrants, covenants and agrees as follows:
- (a) Grantor is now the sole owner of the Intellectual Property Collateral, except for non-exclusive licenses granted by Grantor to its customers in the ordinary course of business.
- (b) Performance of this IP Agreement does not conflict with or result in a breach of any IP Agreement to which Grantor is bound, except to the extent that certain intellectual property agreements prohibit the assignment of the rights thereunder to a third party without the licensor's or other party's consent and this IP Agreement constitutes a security interest.
- (c) During the term of this IP Agreement, Grantor will not transfer or otherwise encumber any interest in the Intellectual Property Collateral, except for non-exclusive licenses granted by Grantor in the ordinary course of business or as set forth in this IP Agreement;
- (d) To its knowledge, each of the Patents is valid and enforceable, and no part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property Collateral violates the rights of any third party;
- (c) Grantor shall promptly advise Bank of any material adverse change in the composition of the Collateral, including but not limited to any subsequent ownership right of the Grantor in or to any Trademark, Patent, Copyright, or Mask Work specified in this IP Agreement;
- (f) Grantor shall (i) protect, defend and maintain the validity and enforceability of the Trademarks, Patents, Copyrights, and Mask Works, (ii) use its best efforts to detect infringements of the Trademarks, Patents, Copyrights, and Mask Works and promptly advise Bank in writing of material infringements detected and (iii) not allow any Trademarks, Patents, Copyrights, or Mask Works to be abandoned, forfeited or dedicated to the public without the written consent of Bank, which shall not be unreasonably withheld, unless Grantor determines that reasonable business practices suggest that abandonment is appropriate.
- (g) Grantor shall promptly register the most recent version of any of Grantor's Copyrights, if not so already registered, and shall, from time to time, execute and file such other instruments, and take such further actions as Bank may reasonably request from time to time to perfect or continue the perfection of Bank's interest in the Intellectual Property Collateral;
- (h) This IP Agreement creates, and in the case of after acquired Intellectual Property Collateral, this IP Agreement will create at the time Grantor first has rights in such after acquired Intellectual

2

FIN://128950 Loudeye IP Agreement



Property Collateral, in favor of Bank a valid and perfected first priority security interest in the Intellectual Property Collateral in the United States securing the payment and performance of the obligations evidenced by the Financing Agreement upon making the filings referred to in clause (i) below;

- (i) To its knowledge, except for, and upon, the filing with the United States Patent and Trademark office with respect to the Patents and Trademarks and the Register of Copyrights with respect to the Copyrights and Mask Works necessary to perfect the security interests created hereunder and except as has been already made or obtained, no authorization, approval or other action by, and no notice to or filing with, any U.S. governmental authority of U.S. regulatory body is required either (i) for the grant by Grantor of the security interest granted hereby or for the execution, delivery or performance of this IP Agreement by Grantor in the U.S. or (ii) for the perfection in the United States or the exercise by Bank of its rights and remedies thereunder;
- (j) All information heretofore, herein or hereafter supplied to Bank by or on behalf of Grantor with respect to the Intellectual Property Collateral is accurate and complete in all material respects.
- (k) Grantor shall not enter into any agreement that would materially impair or conflict with Grantor's obligations hereunder without Bank's prior written consent, which consent shall not be unreasonably withheld. Grantor shall not permit the inclusion in any material contract to which it becomes a party of any provisions that could or might in any way prevent the creation of a security interest in Grantor's rights and interest in any property included within the definition of the Intellectual Property Collateral acquired under such contracts, except that certain contracts may contain anti-assignment provisions that could in effect prohibit the creation of a security interest in such contracts.
- (I) Upon any executive officer of Grantor obtaining actual knowledge thereof, Grantor will promptly notify Bank in writing of any event that materially adversely affects the value of any material Intellectual Property Collateral, the ability of Grantor to dispose of any material Intellectual Property Collateral of the rights and remedies of Bank in relation thereto, including the levy of any legal process against any of the Intellectual Property Collateral.
- 4. <u>Bank's Rights</u>. Bank shall have the right, but not the obligation, to take, at Grantor's sole expense, any actions that Grantor is required under this IP Agreement to take but which Grantor fails to take, after fifteen (15) days' notice to Grantor. Grantor shall reimburse and indemnify Bank for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this section 4.
- 5. Inspection Rights. Grantor hereby grants to Bank and its employees, representatives and agents the right to visit, during reasonable hours upon prior reasonable written notice to Grantor, and any of Grantor's plants and facilities that manufacture, install or store products (or that have done so during the prior six-month period) that are sold utilizing any of the Intellectual Property Collateral, and to inspect the products and quality control records relating thereto upon reasonable written notice to Grantor and as often as may be reasonably requested, but not more than one (1) in every six (6) months; provided, however, nothing herein shall entitle Bank access to Grantor's trade secrets and other proprietary information.

6. Further Assurances: Attorney in Fact.

(a) On a continuing basis, Grantor will, subject to any prior licenses, encumbrances and restrictions and prospective licenses, make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademarks Office and the Register of Copyrights, and take all such action as may reasonably be deemed necessary or advisable, or as requested by Bank, to perfect Bank's security interest in all Copyrights, Patents, Trademarks, and Mask Works and otherwise to carry out the intent and purposes of this IP Agreement, or for assuring and confirming to Bank the grant or perfection of a security interest in all Intellectual Property Collateral.

3



- (b) Grantor hereby irrevocably appoints Bank as Grantor's attorney-in-fact, with full authority in the place and stead of Grantor and in the name of Grantor, Bank or otherwise, from time to time in Bank's discretion, upon Grantor's failure or inability to do so, to take any action and to execute any instrument which Bank may deem necessary or advisable to accomplish the purposes of this IP Agreement, including:
- (i) To modify, in its sole discretion, this IP Agreement without first obtaining Grantor's approval of or signature to such modification by amending Exhibit A, Exhibit B, Exhibit C, and Exhibit D hereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents, Trademarks or Mask Works acquired by Grantor after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents, Trademarks, or Mask Works in which Grantor no longer has or claims any right, title or interest; and
- (ii) To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Intellectual Property Collateral without the signature of Grantor where permitted by law.
- 7. Events of Default. The occurrence of any of the following shall constitute an Event of Default under this IP Agreement:
 - (a) An Event of Default occurs under the Financing Agreement; or
 - (b) Grantor breaches any warranty or agreement made by Grantor in this IP Agreement.
- 8. Remedies. Upon the occurrence and continuance of an Event of Default, Bank shall have the right to exercise all the remedies of a secured party under the California Uniform Commercial Code, including without limitation the right to require Grantor to assemble the Intellectual Property Collateral and any tangible property in which Bank has a security interest and to make it available to Bank at a place designated by Bank. Bank shall have a nonexclusive, royalty free license to use the Copyrights, Patents, Trademarks, and Mask Works to the extent reasonably necessary to permit Bank to exercise its rights and remedies upon the occurrence of an Event of Default. Grantor will pay any expenses (including reasonable attorney's fees) incurred by Bank in connection with the exercise of any of Bank's rights hereunder, including without limitation any expense incurred in disposing of the Intellectual Property Collateral. All of Bank's rights and remedies with respect to the Intellectual Property Collateral shall be cumulative.
- 9. <u>Indemnity.</u> Grantor agrees to defend, indemnify and hold harmless Bank and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this IP Agreement, and (b) all losses or expenses in any way suffered, incurred, or paid by Bank as a result of or in any way arising out of, following or consequential to transactions between Bank and Grantor, whether under this IP Agreement or otherwise (including without limitation, reasonable attorneys fees and reasonable expenses), except for losses arising from or out of Bank's gross negligence or willful misconduct.
- 10. Reassignment. At such time as Grantor shall completely satisfy all of the obligations secured hereunder, Bank shall execute and deliver to Grantor all deeds, assignments, and other instruments as may be reasonably necessary or proper to reinvest in Grantor title to the property to the extent assigned hereunder, subject to any disposition thereof which may have been made by Bank pursuant hereto.
- 11. <u>Course of Dealing.</u> No course of dealing, nor any failure to exercise, nor any delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof.

FIN://128950 Loudeye IP Agreement



- Attorneys' Fees. If any action relating to this IP Agreement is brought by either party hereto against the other party, the prevailing party shall be entitled to recover reasonable attorneys' fees, costs and disbursements.
- Amendments. This IP Agreement may be amended only by a written instrument signed by both 13. parties hereto.
- Counterparts. This IP Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute the same instrument.
- Law and Jurisdiction. This IP Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard for choice of law provisions. Grantor and Bank consent to the nonexclusive jurisdiction of any state or federal court located in Santa Clara County, California.
- Confidentiality. In handling any confidential information, Bank shall exercise the same degree of care that it exercises with respect to its own proprietary information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this IP Agreement except that the disclosure of this information may be made (i) to the affiliates of the Bank, (ii) to prospective transferee or purchasers of an interest in the obligations secured hereby, provided that they have entered into comparable confidentiality agreement in favor of Grantor and have delivered a copy to Grantor, (iii) as required by law, regulation, rule or order, subpoena judicial order or similar order and (iv) as may be required in connection with the examination, audit or similar investigation of Bank.

IN WITNESS WHEREOF, the parties hereto have executed this IP Agreement on the day and year first above written.

Address of Grantor:

Scattle, WA 98144

GRANTOR:

1130 Rainier Avenue South,

a Delaware corporati

Loudeye Corp.,

Name: Title:



EXHIBIT A

Copyrights

Description			Registration/ Application Number	Registration/ Application <u>Date</u>	
LOUDEYE DISTRIBUTOR SAMPLE	MEDIA CLIENT S	SYNDICATOR: SOURCE CODE		10/27/00	
LOUDEYE DISTRIBUTOR SAMPLE		DIASYNDICATOR SOURCE CODE		10/27/00	
LOUDEYE MEDIASYNDICATOR: AFFILIATE TX-5-361-891 10/27/00 SERVER SOURCE CODE SAMPLE					
LOUDEYE MEI SERVER SOURCE		TOR: AFFILIATE IPLE	E TX-5-361-892	10/27/00	

TRADEMARK REEL: 002815 FRAME: 0268

EXHIBIT B



Patents

Description	Registration/ Application Number	Registration/ Application Date
SYSTEM & METHOD FOR SELECTIVE INSERTION OF CONTENT INTO STREAMING MEDIA	10/047,511	10/19/01
SYSTEM FOR AUTOMATED COMPREHENSIVE REMOTE SERVICING FOR MEDIA INFORMATION	09/502,627	2/11/00
DIGITAL REMOTE RECORDER	09/502,377	2/11/00
VOICE TO EMAIL SYSTEM	09/502,161	2/11/00
DISTRIBUTED PRODUCTION SYSTEM FOR DIGITALLY ENCODED INFORMATION	09/499,961	2/8/00
METHODS & SYSTEM FOR DYNAMICALLY SERVING IN-STREAM ADVERTISEMENTS	09/955,750	9/18/01
PERSONAL DIGITAL CONTENT SYSTEM	6,338,044	3/17/99
PERSONAL DIGITAL CONTENT SYSTEM	09/976,507	10/12/01
SYSTEM & METHOD FOR PROVIDING MUSIC SAMPLES ON-LINE IN RESPONSE TO SEARCHES ON AN INTERNET SEARCH ENGINE	60/422,851	11/1/02
SYSTEMS & METHOD FOR ENHANCING STREAMING MEDIA	10/252,400	9/24/02
SYSTEMS & METHOD FOR ENHANCING STREAMING MEDIA	US02/30069	9/24/02
SYSTEM FOR ACCESSING, DISTRIBUTING & MAINTAINING VIDEO CONTENTS OVER PUBLIC & PRIVATE INTERNET PROTOCOL NETWORKS	09/588,827	6/7/00

TRADEMARK REEL: 002815 FRAME: 0269



EXHIBIT C

Trademarks

Description	Registration/ Application <u>Number</u>	Registration/ Application <u>Date</u>
LOUDEYE & DESIGN	76/371,714	
LOUDEYE	75/874,003	
UNLEASHED BY LOUDEYE	76/125,108	
LOUDEYE	2,586,151	
LOUDEYE MEDIA FRAMEWORK	78,267,197	
LOUDEYE MEDIA SYNDICATOR	2,651,155	
LMF	78,267,199	
MEDIA SYNDICATOR	2,528,684	
QUICKCLIPS	78,267,205	
STREAMPIPE	2,630,751	
VIDIPAX	2,639,504	
ACTIVEBROADCAST	76,232,031	
ACTIVECONFERENCE	2,623,938	
ACTIVATE	2,474,918	
ACTIVEAUDIO	2,623,939	
THEDIAL	2,491,937	

TRADEMARK REEL: 002815 FRAME: 0270



EXHIBIT D

Mask Works

Description

RECORDED: 07/14/2004

Registration/ Application Number

Registration/ Application Date

2