

5/3/04

05-05-2004

Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005)



U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

Tab settings

102737753

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

1. Name of conveying party(ies):

MindFlow Technologies, 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: April 27, 2004

2. Name and address of receiving party(ies)

Name: JMI Equity Fund IV, L.P.

Internal

Address:

Street Address: 12680 High Bluff Drive

City: San Diego State: CA Zip: 92130

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

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

OFFICE OF PUBLIC RECORDS
FINANCE SECTION
2004 MAY -3 AM 9:51

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

A. Trademark Application No.(s) 76/432357, 76/107752

B. Trademark Registration No.(s) 2557147, 2520927

Additional number(s) attached Yes No

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

Name: General Counsel / JMI Equity Fund IV, LP

Internal Address:

Street Address: 12680 High Bluff Drive

City: San Diego State: CA Zip: 92130

6. Total number of applications and registrations involved:

4

7. Total fee (37 CFR 3.41) \$ 115.00

- Enclosed
Authorized to be charged to deposit account

8. Deposit account number:

50-2816 (deficiency only)

DO NOT USE THIS SPACE

9. Signature.

Darren Collins

Name of Person Signing

Signature

April 30 2004

Date

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

16

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

05/04/2004 MGETACHE 00000123 76432357

01 FC:8521
02 FC:8522

40.00 OP
75.00 OP

TRADEMARK
REEL: 002962 FRAME: 0467

## INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (this "**Agreement**") is made as of this 27<sup>th</sup> day of April, 2004 by and among MindFlow Technologies, Inc. (the "**Grantor**"), the persons or entities that execute a counterpart signature page to this Agreement as lenders (the "**Lenders**") and JMI Equity Fund IV, L.P. ("**JMI**") both individually as a Lender and in its capacity as collateral agent for the Lenders (JMI in its capacity as such agent is referred to herein as the "**Agent**").

Pursuant to the 6% Senior Subordinated Secured Convertible Demand Promissory Notes (each, a "**Note**" and collectively, the "**Notes**") issued pursuant to the Note Purchase Agreement (the "**Note Purchase Agreement**") dated as of April 27, 2004 by and among the Grantor and the Lenders, the Lenders have agreed to make certain loans to the Grantor, upon the terms and subject to the conditions set forth therein. It is a condition to the obligation of the Lenders to make such loans to the Grantor under the Note Purchase Agreement that the Grantor shall have executed and delivered this Agreement to the Lenders.

NOW, THEREFORE, in consideration of the premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and to induce the Lenders to make loans to the Grantor under the Note Purchase Agreement, the Grantor hereby agrees with the Agent and Lenders as follows:

1. **Grant of Security Interest.** As collateral security for the prompt and complete payment and performance of all of Grantor's Secured Obligations, Grantor has, pursuant to a Security Agreement dated as of the date hereof by and among the Grantor, the Lenders and the Agent (the "**Security Agreement**"), granted to Agent, for benefit and on behalf of Lenders, a security interest in all of Grantor's right, title and interest throughout the world in, to and under the following (all of which shall collectively be called the "**Intellectual Property Collateral**"):

- (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 patents, design patent applications, design registrations, design registration applications, and design rights which may be available to Grantor now or hereafter existing, created, acquired or held;
- (d) All inventions, rights to apply for patents, patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, reexaminations, extensions and continuations-in-part of the same and rights of priority related thereto now existing anywhere in the world or hereafter existing, created, acquired or held, including without limitation the patents and patent applications set forth on Exhibit B attached hereto (collectively, the "**Patents**");
- (e) Any trademarks, servicemarks, tradenames, domain names, corporate names, logos and designs, whether registered or not, applications to register and registrations of the same

and like protections now existing anywhere in the world or hereafter existing, created, adopted or acquired, 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**"), but excluding any U.S. Federal trademark or service mark registration application filed under 15 U.S.C. Section 1051(b) until such time as the filing in such application of an amendment under 15 U.S.C. Section 1051(c) to bring the application into conformity with 15 U.S.C. Section 1051(a) or the filing of a verified statement of use under 15 U.S.C. Section 1051(d);

- (f) 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;
- (g) All licenses or other rights to use any of the Copyrights, Patents, or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights; and
- (h) 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.

Notwithstanding the foregoing, the security interest granted herein does not extend to, and the term "Intellectual Property Collateral" does not include, any license or contract rights to the extent (i) the granting of a security interest therein would be contrary to applicable law, or (ii) that such rights are non-assignable by their terms (but only to the extent the prohibition is enforceable under applicable law) without the consent of the licensor or other party (but only to the extent such consent has not been obtained); provided that upon the termination or lapsing of any such prohibition, such property shall automatically be part of the Intellectual Property Collateral.

2. **Authorization and Request.** Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks, and their counterparts in countries other than the United States, record this Agreement.

3. **Representations and Warranties.** Grantor represents, warrants, covenants and agrees as follows:

- (a) Grantor has good title to all of the Intellectual Property Collateral, free and clear of all liens, security interests and adverse interests, in favor of any person or entity other than the Lenders. Grantor owns or has valid right to use the Intellectual Property Collateral being used to conduct its business as now operated and as now proposed to be operated; and the conduct of its business as now operated and now proposed to be operated does not and will not conflict with valid intellectual property rights of others.
- (b) The Intellectual Property Collateral identified in the exhibits attached to this Agreement constitutes all of the intellectual property being used by Grantor to conduct its business as now operated and constitutes all of the intellectual property that Grantor reasonably believes is necessary to conduct its business as now proposed to be operated.

4. **Counterparts.** This Agreement may be executed in two or more counterparts, including counterparts transmitted by facsimile, each of which shall be deemed an original but all of which together shall constitute the same instrument. Any additional Purchaser under the Note Purchase Agreement may

become a party to this Agreement as a Lender hereunder by executing a counterpart signature pages hereto.

5. **Governing Law.** It is the intention of the parties that the internal laws, and not the laws of conflicts, of the State of Texas should govern the enforceability and validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties pursuant to the relationships among them contemplated herein, whether or not such rights and duties arise directly under this Agreement. Grantor accepts for itself and in connection with its properties, unconditionally, the non-exclusive jurisdiction of any state or federal court of competent jurisdiction in the State of Texas in any action, suit, or proceeding of any kind, against it which arises out of or by reason of this assignment.

6. **Entire Agreement.** This Agreement together with the Notes, the Note Purchase Agreement and the Security Agreement constitute the entire agreement between the parties and supersede all prior agreements and understandings between the Grantor, the Agent and the Lenders relating to the subject matter thereof; provided, however, in the event of any inconsistency or conflict between the terms of this Agreement and the Security Agreement, the Security Agreement shall control.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

**Address of Grantor:**

6504 International Parkway  
Suite 2400  
Plano, Texas 75093

With a copy to:

Patton Boggs LLP  
2001 Ross Avenue, Suite 3000  
Dallas, TX 75201  
Tel: (214) 758-1500  
Fax: (214) 758-1550  
Attn: Thomas R. Nelson

**GRANTOR:**

**MINDFLOW TECHNOLOGIES, INC.**

By: 

Name: *Lee Constantino*  
Title: *VP, Finance + operations*

**Address of Agent:**

12680 High Bluff Drive  
Suite 200  
San Diego, CA 92130

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Mark M. Burnett

**AGENT:**

**JMI EQUITY FUND IV, L.P., as agent for the Lenders**

By: JMI Associates IV, L.L.C.  
its General Partner

By: \_\_\_\_\_

Name:  
Title: Manager Member

**Address of Lenders:**

12680 High Bluff Drive  
Suite 200  
San Diego, CA 92130

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Mark M. Burnett

**LENDERS:**

**JMI EQUITY FUND IV, L.P.**

By: JMI Associates IV, L.L.C.  
its General Partner

By: \_\_\_\_\_

Name:  
Title: Manager Member

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Attn: Thomas R. Nelson

**GRANTOR:**

**MINDFLOW TECHNOLOGIES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**Address of Agent:**

12680 High Bluff Drive  
Suite 200  
San Diego, CA 92130

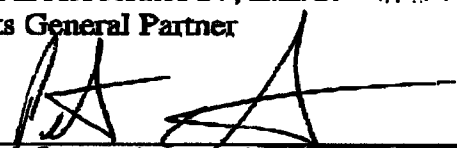
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Attn: Mark H. Burnett

**AGENT:**

**JMI EQUITY FUND IV, L.P., as agent for the Lenders**

By: JMI Associates IV, L.L.C.  
its General Partner

By:   
Name: PETER C. ARROWSMITH  
Title: Manager Member

**Address of Lenders:**

12680 High Bluff Drive  
Suite 200  
San Diego, CA 92130

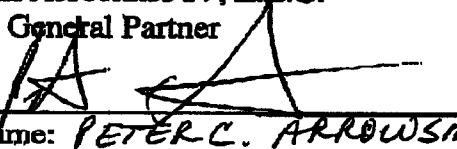
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Boston, MA 02110  
Attn: Mark H. Burnett

**LENDERS:**

**JMI EQUITY FUND IV, L.P.**

By: JMI Associates IV, L.L.C.  
its General Partner

By:   
Name: PETER C. ARROWSMITH  
Title: Manager Member

12680 High Bluff Drive  
Suite 200  
San Diego, CA 92130

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Mark H. Burnett

**JMI EQUITY FUND IV (AI), L.P.**

By: JMI Associates IV, L.L.C.  
its General Partner

By:   
Name: PETER C. ARROWSMITH  
Title: Manager Member

12680 High Bluff Drive  
Suite 200  
San Diego, CA 92130

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Mark H. Burnett

**JMI EURO EQUITY FUND IV, L.P.**

By: JMI Associates IV, L.L.C.  
its General Partner

By:   
Name: PETER C. ARROWSMITH  
Title: Manager Member

12680 High Bluff Drive  
Suite 200  
San Diego, CA 92130

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Mark H. Burnett

**JMI EQUITY SIDE FUND, L.P.**

By: JMI Side Associates, L.L.C.  
its General Partner

By:   
Name: PETER C. ARROWSMITH  
Title: Manager Member

[SIGNATURE PAGE TO THE MINDFLOW TECHNOLOGIES, INC.  
INTELLECTUAL PROPERTY SECURITY AGREEMENT]

279966v2

6801 N. Capital of Texas Highway  
Building 2 Suite 225  
Austin, TX 78731

**TRITON VENTURE PARTNERS, L.P.**

By: Triton Venture Management, L.P.  
its General Partner

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Marl H. Burnett

By: Triton Ventures, L.L.C.  
its Manager

By: *D. Scott Cowie*  
Name: D. Scott Cowie  
Title: Manager Member

1520 Spruce Street #500  
Philadelphia, PA 19102

\_\_\_\_\_  
Upender Rao

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Marl H. Burnett

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Ashutosh Roy

with a copy to:  
Testa, Hurwitz & Thibault, LLP  
125 High Street  
Boston, MA 02110  
Attn: Marl H. Burnett

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its General Partner

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Boston, MA 02110  
Attn: Mark H. Burnett

By: Triton Ventures, L.L.C.  
its Manager

By: \_\_\_\_\_  
Name:  
Title: Manager Member

*V. Rao*

\_\_\_\_\_  
Upender Rao

1520 Spruce Street #500  
Philadelphia PA 19102

with a copy to:  
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\_\_\_\_\_  
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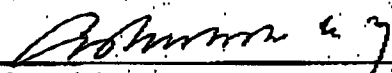
By: Triton Ventures, L.L.C.  
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By: \_\_\_\_\_  
Name:  
Title: Manager Member.

1520 Spruce Street #500  
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\_\_\_\_\_  
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\_\_\_\_\_  
Ashutosh Roy

\_\_\_\_\_  
\_\_\_\_\_

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Boston, MA 02110  
Attn: Mark H. Burnett

[SIGNATURE PAGE TO THE MINDFLOW TECHNOLOGIES, INC.  
INTELLECTUAL PROPERTY SECURITY AGREEMENT]

**EXHIBIT A**

**COPYRIGHTS**

**SCHEDULE A - ISSUED COPYRIGHTS**

COPYRIGHT DESCRIPTION                      REGISTRATION NUMBER                      DATE OF ISSUANCE

**SCHEDULE B - PENDING COPYRIGHT APPLICATIONS**

COPYRIGHT DESCRIPTION              APPLICATION NUMBER                      DATE OF FILING              FIRST DATE OF PUBLIC CREATION              DISTRIBUTION

**SCHEDULE C - UNREGISTERED COPYRIGHTS (WHERE NO COPYRIGHT APPLICATION IS PENDING)**

COPYRIGHT DESCRIPTION              DATE OF CREATION                      FIRST DATE OF DISTRIBUTION              ORIGINAL AUTHOR OR OWNER OF COPYRIGHT (IF DIFFERENT FROM GRANTOR)              DATE AND RECORDATION NUMBER OF IP AGREEMENT TO OWNER OF GRANTOR (IF ORIGINAL AUTHOR OR OWNER OF COPYRIGHT IS DIFFERENT FROM GRANTOR)

**EXHIBIT B****PATENTS**

<b>PATENT DESCRIPTION</b>	<b>DOCKET NO.</b>	<b>COUNTRY</b>	<b>SERIAL NO.</b>	<b>FILING DATE</b>	<b>STATUS</b>
Mindflow Process	066258.0106	USA	09/371711	08/09/1999	Issued
Document Archive	066258.0107	USA	09/371712	08/09/1999	Issued
Knowledge Warehouse	066258.0108	USA	09/371145	08/09/1999	Issued
Supply Allocation Decisions	066258.0112	USA	09/659020	09/08/2000	Pending

**EXHIBIT C**  
**TRADEMARKS**

<b>TRADEMARK DESCRIPTION</b>	<b>COUNTRY</b>	<b>SERIAL NO.</b>	<b>REG. NO.</b>	<b>STATUS</b>
Mindflow	European	1929728	001929728	Registered
Mindflow	USA	76/039746	2557147	Registered
Mindflow Sourcing Suite	USA	76/432357		Pending
Procuremind	European	1561075	1561075	Registered
Procuremind	USA	75/827988	2520927	Registered
Smartsourcing Desktop	USA	76/107752		Allowed

**EXHIBIT D**

**MASK WORKS**

<b>MASK WORK DESCRIPTION</b>	<b>COUNTRY</b>	<b>SERIAL NO.</b>	<b>REG. NO.</b>	<b>STATUS</b>

**Exhibit of Registration and Applications**

Applications

Registrations

76/432357

2557147

76/107752

2520927