

12-30-2004



FORM PTO-1594

IT

U.S. DEPARTMENT OF COMMERCE

(Rev. 03/01)

102913679

Patent and Trademark Office

OMB No. 0651-0027 (exp. 05/31/2002)

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

| | |
|---|---|
| <p>1. Name of conveying party(ies) Invivodata, Inc</p> <p><input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State <input type="checkbox"/> Other</p> | <p>2. Name and address of receiving party(ies): Name: Silicon Valley Bank Internal Address: HA155</p> <p>Street Address: 3003 Tasman Drive</p> |
| <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> | <p>City: Santa Clara State: CA ZIP: 95054</p> |
| <p>3. Nature of conveyance:</p> <p><input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input checked="" type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____</p> | <p><input type="checkbox"/> Individual(s) citizenship <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State-Delaware <input type="checkbox"/> Other</p> <p>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input type="checkbox"/> No Additional name(s) & address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> |

100-100-21

FINANCE SECTION
2004 DEC 21 PM 5 02

Execution Date: 11-22-04

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

| | |
|--|---------------------------------------|
| A. Trademark Application No.(s) 78446249 | B. Trademark No.(s) 2583384 |
| 78446243 | 2465614 |
| | 2564767 |
| | |
| | |

Additional numbers attached? Yes No

| | |
|---|---|
| <p>5. Name and address of party to whom correspondence concerning document should be mailed:</p> <p>Name: Silicon Valley Bank</p> <p>Internal Address: Loan Documentation HA155</p> <p>Street Address: 3003 Tasman Dr.</p> <p>City: Santa Clara State: Ca ZIP: 95054</p> | <p>6. Total number of applications and registrations involved: 5</p> <p>7. Total fee (37 CFR 3.41): \$140.00 <input checked="" type="checkbox"/> Enclosed <input type="checkbox"/> Authorized to be charged to deposit account</p> <p>8. Deposit account number: (Attach duplicate copy of this page if paying by deposit account)</p> |
|---|---|

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.

12/19/2004 XEROX 00000126 78446249

01 FC:8521 40.00 OP
02 FC:8522 100.00 OP

Trisha Scelillo
Name of Person Signing Trisha Scelillo
Signature

Jacqueline

Total number of pages including cover sheet, attachments, and document: 13

12/16/04

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

TRADEMARK
REEL: 003098 FRAME: 0496

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (this "IP Agreement") is made as of the Effective Date by and between Invivodata, Inc. ("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 Purchase Agreement (the "Purchase 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 Purchase Agreement.

B. Pursuant to the terms of the Purchase 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 Purchase 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 Exhibit B 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");

(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; and

(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. Authorization and Request. Grantor authorizes and requests that the Register of Copyrights and the Commissioner of Patents and Trademarks record this IP Agreement.

3. 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;

(e) 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.

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.

(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 Purchase 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. Indemnity. 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 deed, assignments, and other instruments as may be necessary or proper to reinvest in Grantor full title to the property assigned hereunder, subject to any disposition thereof which may have been made by Bank pursuant hereto.

11. Course of Dealing. 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.

12. 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.

13. Amendments. This IP Agreement may be amended only by a written instrument signed by both parties hereto.

14. 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.

15. 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.

16. 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 deliver 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.

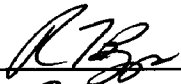
IN WITNESS WHEREOF, the parties hereto have executed this IP Agreement on the day and year first above written.

Address of Grantor:

5615 Scotts Valley Drive, Suite 150
Scotts Valley, CA 95066

GRANTOR:

INVIVODATA, INC.

By: 
Name: ROBERT T. BEGGS
Title: CFO

COPYRIGHTS

SCHEDULE A - ISSUED COPYRIGHTS

| <u>COPYRIGHT DESCRIPTION</u> | <u>REGISTRATION NUMBER</u> | <u>DATE OF ISSUANCE</u> |
|------------------------------|----------------------------|-------------------------|
|------------------------------|----------------------------|-------------------------|

SCHEDULE B - PENDING COPYRIGHT APPLICATIONS

| <u>COPYRIGHT DESCRIPTION</u> | <u>APPLICATION NUMBER</u> | <u>DATE OF FILING</u> | <u>DATE OF CREATION</u> | <u>FIRST DATE OF PUBLIC DISTRIBUTION</u> |
|------------------------------|---------------------------|-----------------------|-------------------------|--|
|------------------------------|---------------------------|-----------------------|-------------------------|--|

SCHEDULE C - UNREGISTERED COPYRIGHTS (Where No Copyright Application is Pending)

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

EXHIBIT "B"

PATENTS

| <u>PATENT</u> | <u>DOCKET NO.</u> | <u>COUNTRY</u> | <u>SERIAL NO.</u> | <u>FILING DATE</u> | <u>STATUS</u> |
|---------------|-------------------|----------------|-------------------|--------------------|---------------|
|---------------|-------------------|----------------|-------------------|--------------------|---------------|

TRADEMARKS

| <u>DESCRIPTION</u> | <u>COUNTRY</u> | <u>SERIAL NO.</u> | <u>REG. NO</u> | <u>STATUS</u> |
|--------------------------------------|----------------|-------------------|----------------|---------------|
| SITEPRO | USA | 78/440,249 | | PENDING |
| DIARYPRO | USA | 78/440,243 | | PENDING |
| THE SCIENCE OF PATIENT EXPERIENCE | USA | | 2,583,384 | REGISTERED |
| THE SCIENCE OF PATIENT EXPERIENCE | USA | | 2,466,614 | REGISTERED |
| INVIVODATA | USA | | 2,564,767 | REGISTERED |

Exhibit A – invivodata Copyrights

The Company's has no registered copyrights or applications pending.

Exhibit B – invivodata Patent Applications:

- (a) New patent application entitled: SYSTEM FOR CLINICAL TRIAL SUBJECT COMPLIANCE, Filed April, 2, 2001. Serial Number 09/825,533.
- (b) New patent application entitled: INSTRUMENTATION OF A PAPER DIARY TO CREATE AN OBJECTIVE RECORD OF EVENTS, Filed April 23, 2001. Serial Number 09/840,730.
- (c) New patent application entitled: APPARATUS AND METHOD FOR PREDICTION AND MANAGEMENT OF SUBJECT COMPLIANCE IN CLINICAL RESEARCH, Filed April 2, 2001. Serial Number 09/825,534.

Exhibit C – invivodata Trademark Applications:

- (a) Pending Application No. 75/926,529 for registration of the mark "INVIVODATA" was filed on 15 December 1999 in Intl Classes 9 and 42.
- (b) Pending Application No. 76/057,689 for registration of the mark "INVIVOSYSTEM" which was filed on 26 May 2000. This application was initially refused by the PTO on the basis of confusing similarity to a registration for the mark NVIVO by an Australian company named Qualitative Solutions & Research Pty. Ltd. The Company intends to file a timely response to the initial refusal.
- (c) Application No. 76/057,691 for registration of the mark "THE SCIENCE OF PATIENT EXPERIENCE" which was filed on 26 May 2000 in Intl Class 9. This application was published for opposition on April 17, 2001.
- (d) Application No. 76/057,690 for registration of the mark "THE SCIENCE OF PATIENT EXPERIENCE" which was filed on 26 May 2000 in Intl Class 42. This application was published for opposition on April 10, 2001.
- (e) Application No. 76/059,740 for registration of the mark "FLOATING 'I' DESIGN" which was filed on 31 May 2000. This application was initially refused on the basis of confusing similarity to an application filed for a similar design mark by Insite Clinical Trials, Inc. The Company has decided to abandon the application.

Exhibit "D" attached to that certain Intellectual Property Security Agreement.
EXHIBIT "D"

MASK WORKS

| <u>MASK WORK</u> | <u>DESCRIPTION</u> | <u>COUNTRY</u> | <u>SERIAL NO.</u> | <u>REG. NO</u> | <u>STATUS</u> |
|------------------|--------------------|----------------|-------------------|----------------|---------------|
|------------------|--------------------|----------------|-------------------|----------------|---------------|

Not APPLICABLE