

12/17/2012

Form PTO-1594 (Rev. 12-11)  
OMB Collection 0651-0027 (exp. 04/30)



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

103652834

TRADEMARKS ONLY



12/14/12

To the Director of the U. S. Patent and Trademark Office: Please record the attached documents or the new address(es) below

RE 103651149

1. Name of conveying party(ies):

GaiaTech Incorporated.

- Individual(s)
- Partnership
- Corporation- State: Illinois
- Other \_\_\_\_\_
- Association
- Limited Partnership

Citizenship (see guidelines) \_\_\_\_\_

Additional names of conveying parties attached?  Yes  No

3. Nature of conveyance/Execution Date(s) :

Execution Date(s) 10/19/2012

- Assignment
- Security Agreement
- Other \_\_\_\_\_
- Merger
- Change of Name

2. Name and address of receiving party(ies)

Additional names, addresses, or citizenship attached?  Yes  No

Name: Fifth Third Bank

Street Address: 3344 Peachtree Road, NE, Suite 800

City: Atlanta

State: Georgia

Country: USA Zip: 30326

- Individual(s) Citizenship \_\_\_\_\_
- Association Citizenship \_\_\_\_\_
- Partnership Citizenship \_\_\_\_\_
- Limited Partnership Citizenship \_\_\_\_\_
- Corporation Citizenship \_\_\_\_\_
- Other Banking Corp Citizenship \_\_\_\_\_

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)

4. Application number(s) or registration number(s) and identification or description of the Trademark.

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

B. Trademark Registration No.(s)

77090377

Additional sheet(s) attached?  Yes  No

C. Identification or Description of Trademark(s) (and Filing Date if Application or Registration Number is unknown):

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

Name: Jennifer D. Malinovsky, Esq.

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

Street Address: 201 17th Street, NW

Suite 1700

City: Atlanta

State: Georgia Zip: 30363

Phone Number: 404-377-6136

Docket Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

6. Total number of applications and registrations involved:

7. Total fee (37 CFR 2.6(b)(6) & 3.41) \$40.00

- Authorized to be charged to deposit account
- Enclosed

8. Payment Information:

Deposit Account Number \_\_\_\_\_

Authorized User Name \_\_\_\_\_

9. Signature:

Signature

Jennifer D. Malinovsky

Name of Person Signing

12/14/12

Date

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

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to: Mail Stop Assignment Recordation Branch, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

TRADEMARK  
REEL: 004937 FRAME: 0938

**ADDITIONAL CONVEYING PARTIES**

(Continuation of Item 1 on Recordation Form Cover Sheet - Form PTO -1594)

Gaiatech Holdings, Inc. - Delaware Corporation

Gaiatech Canada, LLC - Delaware Limited Liability Company

Canadian Gaiatech, B.C. ULC - British Columbia Unlimited Liability Corporation

**TRADEMARK**

**REEL: 004937 FRAME: 0939**



11-5-12

11/05/2012

Form PTO-1594 (Rev. 12-11)  
OMB Collection 0651-0027 (exp. 04/30/2015)



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

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103651149

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**1. Name of conveying party(ies):**

GaiaTech Incorporated

Individual(s)       Association  
 Partnership       Limited Partnership  
 Corporation- State: Illinois  
 Other \_\_\_\_\_

Citizenship (see guidelines) \_\_\_\_\_

Additional names of conveying parties attached?  Yes  No

**2. Name and address of receiving party(ies)**  Yes  No

Additional names, addresses, or citizenship attached?  Yes  No

Name: Fifth Third Bank

Street Address: 3344 Peachtree Road, NE, Suite 800

City: Atlanta

State: Georgia

Country: USA Zip: 30326

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 Association Citizenship \_\_\_\_\_  
 Partnership Citizenship \_\_\_\_\_  
 Limited Partnership Citizenship \_\_\_\_\_  
 Corporation Citizenship \_\_\_\_\_  
 Other Banking Corp Citizenship \_\_\_\_\_

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)

**3. Nature of conveyance/Execution Date(s):**

Execution Date(s) \_\_\_\_\_

Assignment       Merger  
 Security Agreement       Change of Name  
 Other \_\_\_\_\_

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A. Trademark Application No.(s)	Text	B. Trademark Registration No.(s)
		77090377

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

Street Address: 201 17th Street, NW  
Suite 1700

City: Atlanta

State: Georgia Zip: 30363

Phone Number: \_\_\_\_\_

Docket Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**6. Total number of applications and registrations involved:**

**7. Total fee (37 CFR 2.6(b)(6) & 3.41)** \$40.00

Authorized to be charged to deposit account  
 Enclosed

**8. Payment Information:**

11/06/2012 TLEE11 00000026 77090377  
 Deposit Account Number \_\_\_\_\_  
 01 FC: 0521 40.00 OP  
 Authorized User Name \_\_\_\_\_

**9. Signature:** Jennifer D. Malinovsky Signature \_\_\_\_\_ Date 10/30/12

Name of Person Signing \_\_\_\_\_

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

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to: Mail Stop Assignment Recordation Branch, Director of the USPTO, P.O. Box 1450, Alexandria, VA 22313-1450

TRADEMARK  
REEL: 004937 FRAME: 0940

**TRADEMARK SECURITY AGREEMENT**

This TRADEMARK SECURITY AGREEMENT (this "Agreement") is made as of October/9, 2012 by and among GAIATECH INCORPORATED ("GaiaTech"), GAIATECH HOLDINGS, INC. ("Holdings"), GAIATECH CANADA, LLC ("Canada"), and CANADIAN GAIATECH, B.C. ULC ("B.C."), and together with GaiaTech, Holdings and Canada, the "Debtors") and FIFTH THIRD BANK ("Bank").

WITNESSETH:

WHEREAS, Bank and GaiaTech have made and entered into that certain Loan and Security Agreement, dated as of even date herewith (as amended, modified, supplemented and restated from time to time, the "Loan Agreement"); and

WHEREAS, each of Holdings, Canada and B.C. are guarantors of GaiaTech's Obligations under the Loan Agreement; and

WHEREAS, the financial accommodations to be extended to GaiaTech under the Loan Documents will inure to the benefit of each of the Debtors; and

WHEREAS, Bank has required, as a condition to the extension of financial accommodations to be extended to GaiaTech under the Loan Agreement, that Debtors pledge to Bank and grant to Bank a Lien on and in their "Trademarks" (as defined herein) as security for the Obligations; and

WHEREAS, each Debtor is willing to execute and deliver this Agreement in order to induce Bank to make financial accommodations set forth in the Loan Documents;

NOW, THEREFORE, for and in consideration of the premises set forth above and for other good and valuable consideration, the receipt, sufficiency and adequacy of which are hereby acknowledged, each Debtor and Bank hereby agree as follows:

1. Defined Terms. Unless otherwise defined herein, each capitalized term used herein that is defined in the Loan Agreement shall have the meaning specified for such term in the Loan Agreement. The Loan Agreement and the terms and provisions thereof are hereby incorporated herein in their entirety by this reference thereto.

2. Security Interest in Trademarks. To secure the complete and timely payment, performance and satisfaction of all of the Obligations, each of Debtors hereby grants, assigns, transfers and pledges to the Bank, a security interest in and lien on as and by way of a first mortgage and security interest having priority over all other security interests, with power of sale, to the extent permitted by law, upon the occurrence and during the continuation of an Event of Default, all of such Debtor's right, title and interest in and to the following, whether, now

existing or hereafter acquired: (i) trademarks, trade names, registered trademarks, trademark applications, service marks, registered service marks and service mark applications, including, without limitation, the trademarks, trade names, registered trademarks, trademark applications, service marks, registered service marks and service mark applications listed on Schedule I attached hereto and made a part hereof, and (a) all renewals thereof, (b) all income, royalties, damages and payments now and hereafter due and/or payable under and with respect thereto, including, without limitation, payments under all licenses entered into in connection therewith and damages and payments for past or future infringements or dilutions thereof, (c) the right to sue or otherwise recover for past, present and future infringements and dilutions thereof, (d) the goodwill of such Debtor's business symbolized by the foregoing and connected therewith, (e) all of such Debtor's rights corresponding thereto throughout the world, and (f) all other proceeds and products of the foregoing, including (without limitation) any rights pursuant to its agreements with any other party relating thereto (all of the foregoing trademarks, trade names, registered trademarks and trademark applications, service marks, registered service marks and service mark applications, together with the items described in clauses (a)-(f) in this Section 2(i), are sometimes hereinafter individually and/or collectively referred to as the "Trademarks"), and (ii) the goodwill of such Debtor's business connected with and symbolized by the Trademarks.

3. New Trademarks. Each Debtor represents and warrants that as of the date hereof (a) the Trademarks listed on Schedule 1 are a true, accurate and complete list of all of such Debtor's Trademarks registered in the United States of America, and (b) from and after the date hereof no Liens in such Trademarks have been granted by such Debtor to any person or entity, other than the Bank and except as permitted in the Loan Agreement. If, prior to payment in full of the Obligations and the termination of this Agreement, any Debtor shall (i) obtain rights to any new Trademarks-or (ii) become entitled to the-benefit of any Trademarks, the provisions of Section 2 above shall automatically apply thereto, provided that Debtor shall not be under any obligation to take any steps or incur any costs to enforce, create or perfect any lien or security interest in any Trademarks registered outside of the United States of America, including, without limitation any filing, recordation, notice or otherwise in any country other than the United States of America. Each Debtor shall give to the Bank written notice of the acquisition of new Trademarks registered in the United States of America promptly after the occurrence thereof. Each Debtor may, and hereby authorizes the Bank to, modify this Agreement unilaterally upon such Debtor's notice to the Bank (i) by amending Schedule I to include any such future Trademarks registered in the United States of America and (ii) by filing, in addition to and not in substitution for this Agreement, a duplicate original of this Agreement containing on Schedule I thereto, as the case may be, such future Trademarks.

4. Grant of License. Bank hereby grants to Debtor the royalty-free, exclusive, nontransferable right and license to make, have made, use, and sell the inventions disclosed and claimed in the Trademarks for such Debtor's own benefit and account and for none other. Such right and license shall be exercisable by such Debtor at all times except upon the occurrence and during the continuance of an Event of Default. Except as otherwise permitted by the Loan Documents, each Debtor agrees not to sell or assign its interest in, or grant any sublicense under, the right and license granted to it in this Section without the prior written consent of Bank.

5. Royalties. Each Debtor hereby agrees that the use by the Bank of the Trademarks as authorized hereunder in connection with the Bank's exercise of its rights and remedies hereunder or pursuant to any Loan Document shall be coextensive with such Debtor's rights thereunder and with respect thereto and without any liability for royalties or other related charges from Bank to such Debtor.

6. Duties of the Debtor. Each Debtor shall have the duty, to the extent desirable in the normal conduct of its business, to (a) prosecute diligently any trademark application or service mark application that is part of the Trademarks pending as of the date hereof or hereafter until the termination of this Agreement, (b) make application on untrademarked but trademarkable items, as appropriate, giving due consideration to value, importance, cost, and opinion of counsel as to trademarkability, and (c) preserve, maintain, and enforce against infringement all Trademarks (other than nonpayment of renewal fees on trademarks which are not necessary or useful in the conduct of such Debtor's business or operations, if so consented to by Bank). Each Debtor further agrees (i) not to abandon any registered Trademark material to the conduct of its business without the prior written consent of the Bank, and (ii) to maintain in full force and effect the registered Trademarks material to the conduct of its business. Any expenses incurred in connection with the foregoing shall be borne by such Debtor. The Bank shall not have any duty, other than any duty imposed by law, with respect to the Trademarks. Without limiting the generality of the foregoing, the Bank shall be under no obligation to take any steps necessary to preserve rights in the Trademarks against any other parties, but the Bank may do so at its option from and after the occurrence and during the continuance of an Event of Default, and all expenses incurred in connection therewith shall be for the account of such Debtor and shall be added to the Obligations secured hereby.

7. Power of Attorney; Cumulative Remedies. Each Debtor hereby irrevocably designates, constitutes and appoints the Bank (and all officers and Banks of the Bank designated by the Bank in its sole and absolute discretion) as such Debtor's true and lawful attorney-in-fact, and authorizes the Bank and any of the Bank's designees, in such Debtor's or the Bank's name, upon the occurrence and during the continuation of an Event of Default, to take any action and execute any instrument necessary or reasonably advisable to accomplish the purposes of this Agreement, and consistent with existing license agreements, including, without limitation, to (i) endorse such Debtor's name on all applications, documents, papers and instruments necessary or reasonably desirable for the Bank in the use of the Trademarks, (ii) assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to anyone, (iii) grant or issue any exclusive or nonexclusive license under the Trademarks to anyone, and (iv) take any other actions with respect to the Trademarks as the Bank deems in its best interest. Each Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable until this Agreement is terminated. Each Debtor acknowledges and agrees that this Agreement is not intended to limit or restrict in any way the rights and remedies of the Bank under the Loan Agreement or any other Loan Document, but rather is intended to facilitate the exercise of such rights and remedies.

8. Successors and Assigns. This Agreement shall be binding upon each Debtor and its successors and assigns, and shall inure to the benefit of Bank and its nominees, successors and assigns. Each Debtor's successors and assigns shall include, without limitation, a receiver or a trustee of such Debtor; provided, however, that Debtor shall not voluntarily assign or transfer its rights or obligations hereunder without the Bank's prior written consent.

9. Governing Law. This Agreement shall be construed and enforced and the rights and duties of the parties shall be governed by in all respects in accordance with the laws and decisions of the State of Georgia, without reference to the conflicts or choice of law principles thereof.

10. Notices. All notices or other communications hereunder shall be given in the manner and to the addresses set forth in the Loan Agreement.

IN WITNESS WHEREOF, the parties hereto have duly executed this Trademark Security Agreement as of the day and year first above written.

DEBTORS:

GAIATECH INCORPORATED

By: Philip Newton  
Name: Philip Newton  
Title: President & CEO

[SEAL]

GAIATECH HOLDINGS, INC.

By: Philip Newton  
Name: Philip Newton  
Title: Vice President

[SEAL]

GAIATECH CANADA, LLC

By: Philip Newton  
Name: Philip Newton  
Title: President & CEO

[SEAL]

CANADIAN GAIATECH, B.C. ULC

By: Philip Newton  
Name: Philip Newton  
Title: President & CEO

[SEAL]



STATE OF IL )  
COUNTY OF COOK )

I, the undersigned authority, a Notary Public in and for said County in said State, hereby certify that Philip Newton, whose name as an officer of each of Debtor entities who are parties hereto, is signed to the foregoing instrument, and who is known to me or who produced identification satisfactory to me, acknowledged before me on this day that, being informed of the contents of said instrument, he/she, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 17<sup>th</sup> day of Oct., 2012.

[AFFIX SEAL]



Alison Funck  
Notary Public

My commission expires: 1-7-2013

Agreed and Accepted as of this October 19<sup>th</sup>, 2012

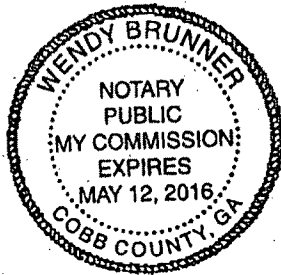
FIFTH THIRD BANK

By: Rainer Zeck  
Name: Rainer Zeck  
Title: Vice-President

STATE OF GEORGIA    )  
                                  )  
COUNTY OF FULTON    )

The foregoing Trademark Security Agreement as executed and acknowledged before me this October 15 2012 by Rainer Zeck, personally known to me to be a Vice President of FIFTH THIRD BANK, a banking corporation, on behalf of said Bank.

(SEAL)



*Wendy Brunner*

Notary Public

My Commission expires: May 12, 2016

Schedule 1  
To  
Trademark Security Agreement

Dated as of October 19, 2012

**Current Trademarks**

<b>Trademark</b>	<b>Registration Number</b>	<b><u>Registration Date</u></b>
GaiaTech	Serial # 77090377	01/24/07