

09-14-2001



Form PTO-1594  
(Rev. 03/01)  
OMB No. 0651-0027 (exp. 5/31/2002)  
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U.S. DEPARTMENT OF COMMERCE  
U.S. Patent and Trademark Office

101842528

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

1. Name of conveying party(ies):  
**CYP TECHNOLOGIES, LLC** *9-1001*

Individual(s)                       Association  
 General Partnership               Limited Partnership  
 Corporation-State  
 Other LIMITED LIABILITY COMPANY

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

2. Name and address of receiving party(ies)  
Name: **FRONTIER BANK**  
Internal  
Address: **ATTN: MELANIE CARTER**  
Street Address: **817 BROAD STREET**  
City: **CHATTANOOGA** State: **TN** Zip: **37402**

Individual(s) citizenship  
 Association *SEP 10 2001*  
 General Partnership  
 Limited Partnership  
 Corporation-State **TENNESSEE**  
 Other

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: **AUGUST 31, 2001**

4. Application number(s) or registration number(s):  
A. Trademark Application No.(s)  
B. Trademark Registration No.(s)

Additional number(s) attached  Yes  No

B. Trademark Registration No.(s)  
*1753611*

5. Name and address of party to whom correspondence concerning document should be mailed:  
Name: **FRONTIER BANK**  
Internal Address: **ATTN: MELANIE CARTER**  
Street Address: **817 BROAD STREET**  
City: **CHATTANOOGA** State: **TN** Zip: **37402**

6. Total number of applications and registrations involved: **3**

7. Total fee (37 CFR 3.41).....\$ **90.00**  
 Enclosed  
 Authorized to be charged to deposit account

8. Deposit account number:  
(Attach duplicate copy of this page if paying by deposit account)

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.*

**MELANIE CARTER**                      *Melanie Carter*                      **08/31/2001**  
Name of Person Signing                      Signature                      Date

Total number of pages including cover sheet, attachments, and document: **2**

09/13/2001 DBYRNE 00000239 1753611

01 FC:481  
02 FC:482

40.00 OP  
50.00 OP

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

TRADEMARK  
REEL: 002366 FRAME: 0484

<u>Country</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
United States	1,753,611	02/23/93
Australia	A585,477	01/13/94
Benelux	518,357	03/01/93
Canada	428,564	06/10/94
Germany	2041939	08/06/93
France	92432459	02/12/93
United Kingdom	1,512,655	06/18/93
Japan	3073968	09/29/95
South Korea	275,105	09/24/93
Taiwan	00605848	07/16/93
United States	1,758,002	03/16/93
United States	1,850,606	08/23/94

## Trademark Collateral Assignment

This Agreement is made on the 31<sup>st</sup> day of August, 2001, between CYP Technologies, LLC, a Tennessee limited liability company having a mailing address at 2900 E. 49<sup>th</sup> Street, Chattanooga, Tennessee 37407 ("Assignor") and Frontier Bank having a mailing address at 817 Broad Street, Chattanooga, Tennessee 37402 ("Lender").

**BACKGROUND.** Assignor has executed and delivered its promissory note (the "Note") to the Lender in the aggregate principal amount of \$1,935,000.00, pursuant to a certain Note dated August 31, 2001, between Assignor and the Lender (as amended from time to time, the Note). In order to induce the Lender to execute and deliver the Loan Agreement, Assignor has agreed to assign to Lender certain Trademark rights.

NOW, THEREFORE, in consideration of the premises, Assignor hereby agrees with Lender as follows:

1. To secure the complete and timely satisfaction of all obligations under the Note, Assignor hereby grants, assigns and conveys to Lender the entire right, title and interest in and to the Trademark applications and Trademarks listed in Schedule A hereto, including without limitation all proceeds thereof (such as, by way of example, license royalties and proceeds of infringement suits), the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof (collectively called the "Trademarks"), and the goodwill of the business to which each of the Trademarks relates.

2. Assignor covenants and warrants that:

- (a) The Trademarks are subsisting and have not been adjudged invalid or unenforceable, in whole or in part;
- (b) To the best of Assignor's knowledge, each of the Trademarks is valid and enforceable and Assignor has notified Lender in writing of all prior art (including public uses and sales) of which it is aware;
- (c) Assignor is the sole and exclusive owner of the entire and unencumbered right, title and interest in and to each of the Trademarks, free and clear of any liens, charges and encumbrances, including without limitation pledges, assignments, licenses, shop rights and covenants by Assignor not to sue third persons; and
- (d) Assignor has the unqualified right to enter into this Agreement and perform its terms and has entered and will enter into written agreements with each of its present and future employees, agents and consultants which will enable it to comply with the covenants herein contained.

Except as specifically set forth above, Assignor does not warrant that the Trademarks might not be declared invalid if challenged in court.

3. Assignor agrees that, until all of the obligations under the Note shall have been satisfied in full, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Assignor's obligations under this Agreement, without Lender's prior written consent.

4. If, before the obligations under the Note shall have been satisfied in full, Assignor shall obtain rights to any new Trademarkable inventions, or become entitled to the benefit of any Trademark application or Trademark for any reissue, division, continuation, renewal, extension, or continuation-in-part of any Trademark or any improvement on any Trademark, the provisions of paragraph 1, shall automatically apply thereto and Assignor shall give to Lender prompt notice thereof in writing hereof.

5. Assignor authorizes Lender to modify this Agreement by amending Schedule A to include any future Trademarks and Trademark applications which are Trademarks under paragraph 1 or paragraph 4 hereof.

6. Unless and until there shall have occurred and be continuing an Event of Default (as defined in the Note), Lender hereby grants to Assignor the exclusive,

nontransferable right and license under the Trademarks to make, have made for it, use and sell the inventions disclosed and claimed in the Trademarks for Assignor's own benefit and account and for none other. Assignor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Assignor in this paragraph 6, without the prior written consent of Lender.

7. If any Event of Default shall have occurred and be continuing, Assignor's license under the Trademarks as set forth in paragraph 6, shall terminate forthwith, and the Lender shall have, in addition to all other rights and remedies given it by this Agreement, those allowed by law and the rights and remedies of a secured party under the Uniform Commercial Code as enacted in any jurisdiction in which the Trademarks may be located and, without limiting the generality of the foregoing, the Lender may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Assignor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, in Chattanooga, Tennessee, or elsewhere, the whole or from time to time any part of the Trademarks, or any interest which the Assignor may have therein, and after deducting from the proceeds of sale or other disposition of the Trademarks all expenses (including all reasonable expenses for brokers' fees and legal services), shall apply the residue of such proceeds toward the payment of the obligations under the Note. Any remainder of the proceeds after payment in full of the obligations under the Note shall be paid over to the Assignor. Notice of any sale or other disposition of the Trademarks shall be given to Assignor at least five (5) days before the time of any intended public or private sale or other disposition of the Trademarks is to be made, which Assignor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, any holder of any Note or Lender may, to the extent permissible under applicable law, purchase the whole or any part of the Trademarks sold, free from any right of redemption on the part of Assignor, which right is hereby waived and released.

8. If any Event of Default shall have occurred and be continuing, Assignor hereby authorizes and empowers Lender to make, constitute and appoint any officer or agent of Lender, as Lender may select in its exclusive discretion, as Assignor's true and lawful attorney-in-fact, with the power to endorse Assignor's name on all applications, documents, papers and instruments necessary for Lender to use the Trademarks to any third person, or necessary for Lender to assign, pledge, convey or otherwise transfer title in or dispose of the Trademarks to any third person. Assignor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Agreement.

9. At such time as Assignor shall completely satisfy all of the obligations under the Note, this Agreement shall terminate and Lender shall execute and deliver to Assignor all deeds, assignments and other instruments as may be necessary or proper to re-vest in Assignor full title to the Trademarks, subject to any disposition thereof which may have been made by Lender pursuant hereto.

10. Any and all fees, costs and expenses, of whatever kind or nature, including the reasonable attorney's fees and legal expenses incurred by Lender in connection with the preparation of this Agreement and all other documents relating hereto and the consummation of this transaction, the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances or otherwise protecting, maintaining or preserving the Trademarks, or in defending or prosecuting any actions or proceedings arising out of or related to the Trademarks, shall be borne and paid by Assignor on demand by Lender and until so paid shall be added to the principal amount of the obligations under the Note and shall bear interest at the highest rate prescribed in the Note.

11. Assignor shall have the duty, through counsel acceptable to Lender, to prosecute diligently any Trademark applications of the Trademarks pending as of the date of this Agreement or thereafter until the obligations under the Note shall have been paid in full, to make application on unTrademarked but Trademarkable inventions and to preserve and maintain all rights in Trademark applications and Trademarks of the

Trademarks, including without limitation the payment of all maintenance fees. Any expenses incurred in connection with such an application shall be borne by Assignor. The Assignor shall not abandon any right to file a Trademark application, or any pending Trademark application or Trademark without the consent of the Lender, which consent shall not be unreasonably withheld.

12. Assignor shall have the right, with the consent of Lender, which shall not be unreasonably withheld, to bring suit to its own name, and to join Lender, if necessary, as a party to such suit so long as Lender is satisfied that such joinder will not subject it to any risk of liability, to enforce the Trademarks and any licenses thereunder. Assignor shall promptly, upon demand, reimburse and indemnify Lender for all damages, costs and expenses, including legal fees, incurred by Lender pursuant to this paragraph 12.

13. No course of dealing between Assignor and Lender, nor any failure to exercise, nor any delay in exercising, on the part of Lender, any right, power or privilege hereunder or under the Note shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

14. All of Lender's rights and remedies with respect to the Trademarks, whether established hereby or by the Note, or by any other agreements or by law shall be cumulative and may be exercised singularly or concurrently.

15. The provisions of this Agreement are severable, and if any clause or provision shall be held invalid and unenforceable in whole or in part in any jurisdiction, then such invalidity or unenforceability shall affect only such clause or provision, or part thereof, in such jurisdiction, and shall not in any manner affect such clause or provision in any other jurisdiction, or any clause or provision of this Agreement in any jurisdiction.

16. This Agreement is subject to modification only by a writing signed by the parties, except as provided in paragraph 5.

17. The benefits and burdens of the Agreement shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties.

18. The validity and interpretation of this Agreement and the rights and obligations of the parties shall be governed by the laws of the State of Tennessee.

WITNESS the execution hereof under seal as of the day and year first above written.

CYP Technologies, LLC  
ASSIGNOR:

By: Richard Miller  
Richard Miller, Chief Manager

By: Wendell Davis  
Wendell Davis, Secretary

By: Robert E. Kokoszka  
Robert E. Kokoszka, Member .. Officer of Member

Frontier Bank  
LENDER:

By: Richard E. Nelson  
Richard E. Nelson  
Executive Vice President

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this the 31<sup>st</sup> day of August, 2001, before me personally appeared Richard Miller, with whom I am personally acquainted, and who upon oath, acknowledged himself to be the Chief Manager of CYP Technologies, LLC, the within named bargainer, a limited liability company, and that he as such Chief Manager, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company by himself as Chief Manager.

5/07/02  
My Commission Expires:

Janna M. Thomas  
Notary Public

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this the 31<sup>st</sup> day of August, 2001, before me personally appeared Wendell Davis, with whom I am personally acquainted, and who upon oath, acknowledged himself to be the Secretary of CYP Technologies, LLC, the within named bargainer, a limited liability company, and that he as such Secretary, being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company by himself as Secretary.

5/07/02  
My Commission Expires:

Janna M. Thomas  
Notary Public

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this the 31<sup>st</sup> day of August, 2001, before me personally appeared Robert E. Kokoszka, with whom I am personally acquainted, and who upon oath, acknowledged himself to be the Member - Officer of Member of CYP Technologies, LLC, the within named bargainer, a limited liability company, and that he as such Member - Officer of Member being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the limited liability company by himself as Member - Officer of Member.

5/07/02  
My Commission Expires:

Janna M. Thomas  
Notary Public

STATE OF TENNESSEE  
COUNTY OF HAMILTON

On this the 31<sup>st</sup> day of August, 2001, before me personally appeared Richard E. Nelson, with whom I am personally acquainted, and who upon oath, acknowledged himself to be the Executive Vice President of Frontier Bank, the within named bargainer, a Tennessee banking corporation, and that he as such Executive Vice President being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself as Executive Vice President.

5/07/02  
My Commission Expires:

Janna M. Thomas  
Notary Public

Schedule A to a Trademark Collateral Assignment dated August 31, 2001, between CYP Technologies, LLC, a Tennessee corporation having a mailing address at 2900 E. 49<sup>th</sup> Street, Chattanooga, Tennessee 37407 ("Assignor") and Frontier Bank having a mailing address at 817 Broad Street, Chattanooga, Tennessee 37402 ("Lender").

<u>Country</u>	<u>Reg. No.</u>	<u>Reg. Date</u>
United States	1,753,611	02/23/93
Australia	A585,477	01/13/94
Benelux	518,357	03/01/93
Canada	428,564	06/10/94
Germany	2041939	08/06/93
France	92432459	02/12/93
United Kingdom	1,512,655	06/18/93
Japan	3073968	09/29/95
South Korea	275,105	09/24/93
Taiwan	00605848	07/16/93
United States	1,758,002	03/16/93
United States	1,850,606	08/23/94