

08-07-2003

FORM PTO-1594

EET

U.S. DEPARTMENT OF COMMERCE

(Rev. 03/01)

Patent and Trademark Office

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



102518018

P.T.O.

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

1. Name of conveying party(ies): **ERAGEN BIOSCIENCES, INC**

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

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

3. Nature of conveyance:

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

Execution Date: 07/11/03

2. Name and address of receiving party(ies):

Name: **Silicon Valley Bank**
Internal Address: HA155

Street Address: 3003 Tasman Drive

City: Santa Clara State: CA ZIP: 95054

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

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

A. Trademark Application No.(s)

76/015,011

76/243,229

76/248,521

B. Trademark No.(s)

2,460,254

2,733,519

2,556,573

2,661,986

2,393,390

Additional numbers attached? Yes No

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

Name: **Silicon Valley Bank**

Internal Address: Loan Documentation HA155

Street Address: 3003 Tasman Dr.

City: Santa Clara State: Ca ZIP: 95054

6. Total number of applications and registrations involved: 8

7. Total fee (37 CFR 3.41): \$215.00

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

08/06/2003 DBYRNE 00000054 76015011

01 FC:4521 40.00 OP

02 FC:8522 175.00 OP

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.

Maribel Arteaga
Name of Person Signing

Maribel Arteaga
Signature

7/25/2003
Date

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

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

TRADEMARK
REEL: 002795 FRAME: 0924

RECORDS - 5 AM 4:37
IPR/FINANCE

INTELLECTUAL PROPERTY SECURITY AGREEMENT

This Intellectual Property Security Agreement (this "IP Agreement") is made as of the Effective Date, by and between **EraGen Biosciences, Inc.**, 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 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;

(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 the Therascope License and 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.

(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 protect 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

(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 provided that Bank will copy Grantor on all correspondence relating thereto; 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 provided that Bank will copy Grantor on all correspondence relating thereto.

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 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. 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 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:

918 Deming Way, Suite 201
Madison, WI 53717

GRANTOR:

EraGen Biosciences, Inc.
a Delaware corporation

By: Irene Hrusovsky
Name: IRENE HRUSOVSKY
Title: PRESIDENT & CEO

7/11/03

Exhibit "A" attached to that certain Intellectual Property Security Agreement dated as of the Effective Date of the Purchase Agreement.

EXHIBIT "A"

COPYRIGHTS

Exhibit "A" attached to that certain Intellectual Property Security Agreement dated as of the Effective Date of the Purchase Agreement.

EXHIBIT "A"
COPYRIGHTS

SCHEDULE A - ISSUED COPYRIGHTS

<u>COPYRIGHT DESCRIPTION</u>	<u>REGISTRATION NUMBER</u>	<u>DATE OF ISSUANCE</u>
NONE		

SCHEDULE B - PENDING COPYRIGHT APPLICATIONS

<u>COPYRIGHT DESCRIPTION</u>	<u>APPLICATION NUMBER</u>	<u>DATE OF FILING</u>	<u>CREATION</u>	<u>FIRST DATE OF PUBLIC DISTRIBUTION</u>
NONE				

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 ORIGINAL AUTHOR OR OWNER OF COPYRIGHT IS DIFFERENT FROM GRANTOR)</u>
Old EraGen Logo	04/01/1999	07/01/1999	---	---
New EraGen Logo	06/06/2003	N/A	---	---
Master Catalog Design	09/01/1999	09/01/1999	---	---
Master Catalog Software	1999	1999	---	---

EXHIBIT "B"
PATENTS

PATENT DESCRIPTION	INTERNAL DOCKET #	COUNTRY	SERIAL NO.	FILING DATE	STATUS	PATENT NO.	PATENT DATE
Graphical User Interface for Display and Analysis of Biological Sequence Data	ERA-PAT	AU, CA, CN, EPO, IN, JP,	PCT/US00/25247	09/14/2000	PENDING	WO 01/20535 A2	03/22/2001
Materials and Methods for Detection of Nucleic Acids	ERA-PAT	AU, CA, CN, EPO, JP	PCT/US01/16359	05/18/2001	PENDING	WO 01/90417 A2	11/29/2001
Solid Support Assay Systems and Methods Utilizing Non-Standard Base Pairs	ERA-PAT	AU, CA, CN, EPO, JP	PCT/US01/31993	10/15/2001	PENDING	WO 02/33126 A2	04/25/2002
Molecular Break Lights Probes for Detecting Nucleotide Cleavage	ERA-PAT	AU, CA, CN, EPO, JP	PCT/US01/44331	11/27/2001	PENDING	WO 02/42497 A2	05/30/2002
Oligonucleotide Analogs Containing Sulfur Linkages	ERA-PAT001	USA	07/202,528	06/06/1988	ISSUED	5,216,141	06/01/1993
Chimeras of Sulfur-Linked Oligonucleotide Analogs and DNA and RNA	ERA-PAT002	USA	08/645,411	05/13/1996	ISSUED	6,444,798	09/03/2002
Predicting Folding Structures of Proteins	ERA-PAT003	USA	07/857,224	03/25/1992	ISSUED	5,958,784	09/28/1999
Application of Protein Structure Productions	ERA-PAT004	USA	08/914,375	08/19/1997	ISSUED	6,377,893	04/23/2002
Receptor Assisted Combinatorial Synthesis	ERA-PAT005	USA	08/386,521	02/06/1995	ISSUED	5,958,702	09/28/1999
Method for Incorporating into a DNA or RNA Oligonucleotide Using Nucleotides Bearing Heterocyclic Bases	ERA-PAT006	USA	07/594,290	10/09/1990	ISSUED	5,432,272	06/11/1995
Oligonucleotides with Non-Standard Bases and Methods for Preparing Same	ERA-PAT007	USA	08/375,132	01/17/1995	ISSUED	6,001,983	12/14/1999
Recognition of Oligonucleotides Containing Non-Standard Base Pairs	ERA-PAT008	USA	08/542,142	10/12/1995	ISSUED	6,037,120	03/14/2000
Precursors for Deoxyribonucleotides Containing Non-Standard Nucleotides	ERA-PAT009	USA	08/775,401	12/31/1996	ISSUED	6,140,496	10/31/2000
Precursors for Deoxyribonucleotides Containing Non-Standard Nucleotides	ERA-PAT010	USA	09/538,338	03/29/2000	NOTICE OF ALLOWANCE	N/A	N/A
Method for Selecting Functional Deoxyribonucleotide Derivatives	ERA-PAT011	USA	08/775,402	12/31/1996	ISSUED	5,965,364	10/12/1999
Method for Selecting Functional Deoxyribonucleotide Derivatives	ERA-PAT012	USA	09/415,966	10/12/1999	PENDING	N/A	N/A
Graphical User Interface for Display and Analysis of Biological Sequence Data	ERA-PAT013	USA	09/397,445	09/14/1999	PENDING	N/A	N/A
Materials and Methods for Detection of Nucleic Acids	ERA-PAT014	USA	09/861,292	05/18/2001	PENDING	US 2002/0150900 A1	10/17/2002
Solid Support Assay Systems and Methods Utilizing Non-Standard Bases	ERA-PAT015	USA	09/977,615	10/15/2001	PENDING	N/A	N/A
Methods and Compositions for Detection, Amplification and Isolation of Full-Length Nucleic Acids	ERA-PAT016	USA	60/252,783	11/22/2000	ABANDONED	N/A	N/A

Molecular Break Lights Probes for Detecting Nucleotide Cleavage	ERA-PAT017	USA	09/993,757	11/27/2001	PENDING	US 2002/0187484 A1	12/12/2002
In Vitro Selection with Non-Standard Bases	ERA-PAT018	USA	09/460,586	12/14/1999	ABANDONED	N/A	N/A
Assembly of Nucleic Acid Polymers Using An Expanded Genetic Information System	ERA-PAT019	USA	60/401,611	08/06/2002	PENDING	N/A	N/A
Nucleic Acid Amplification Using Non-Standard Bases	ERA-PAT020	USA	60/440,921	01/17/2003	PENDING	N/A	N/A
Nucleic Acid-based Polymerase Inhibitor and Method of Using Same	ERA-PAT021	USA	60/459,672	04/01/2003	PENDING	N/A	N/A
Detection of Closely-Related Low Frequency Species in Complex Nucleic Acid Mixtures	ERA-PAT022	USA	60/462,243	04/11/2003	PENDING	N/A	N/A
Materials and Methods for the Detection of SARS	ERA-PAT023	USA	60/472,928	05/23/2003	PENDING	N/A	N/A

As part of a Patent License Agreement between EraGen Biosciences, Inc.; Therascope AG and Therascope Inc.; and Dr. Steven Benner:

Therascope hereby grants to EraGen and its Affiliates a royalty-free, non-exclusive, transferable license to practice all claims of United States Patent Applications Serial No. 09/034,301, and 60/328,802 and any United States patent applications claiming priority from International Publication Nos. WO 01/64605 and WO 02/20435, and any and all claims of divisionals, continuations, continuations-in-part, extensions, reissues, reexaminations and renewals thereof filed in the Licensed Territory, together with any claims of patents issuing therefrom for any internal research purposes in the United States, said license being without the right to sublicense or any sublicense being implied; and

Therascope hereby grants to EraGen and its Affiliates a royalty-bearing, non-exclusive, transferable license to practice all claims of United States Patent Applications Serial No. 09/034,301, and 60/328,802 and any United States patent applications claiming priority from International Publication Nos. WO 01/64605 and WO 02/20435, and any and all claims of divisionals, continuations, continuations-in-part, extensions, reissues, reexaminations and renewals thereof filed in the Licensed Territory, together with any claims of patents issuing therefrom to make, use, sell, offer to sell and import EraGen Compounds in the United States, said license being without the right to sublicense or any sublicense being implied.

Exhibit "C" attached to that certain Intellectual Property Security Agreement dated as of the Effective Date of the Purchase Agreement.

EXHIBIT "C"

TRADEMARKS

<u>TRADEMARK DESCRIPTION</u>	<u>COUNTRY</u>	<u>SERIAL NO.</u>	<u>REG. NO.</u>	<u>STATUS</u>
AEGIS (An Expanded Genetic Information System) ERA-CODE	Australia	890894	890894	REGISTERED
	Taiwan	90040724	0108071	REGISTERED
ERAGEN BIOSCIENCES and Design	United States	76/015,011		PENDING
	European Comm.	001883578	001883578	REGISTERED
	United States	75/698,681	2,460,254	REGISTERED
	Australia	878451	878541	REGISTERED
	Canada	1,034,066	570353	REGISTERED
	China	2001-104819	1967482	REGISTERED
	European Comm.	001365790	001365790	REGISTERED
	Japan	11-99828	4482571	REGISTERED
	Taiwan	90024215	00166690	REGISTERED
	United States	76/243,229		PENDING
FAST-SHOT GENE-CODE	United States	76/015,010		REGISTERED
	United States		2,733,519	
MASTER CATALOG and Design	United States	75/699,810	2556573	REGISTERED
	Australia	878450	878450	REGISTERED
	Canada	1,105,552		PENDING
	China	2001-108417		PENDING
	European Comm.	002334225	002334225	REGISTERED
	Japan	2001-065912		PENDING
	Taiwan	90019972		PENDING
	United States	76/248,521		PENDING
	Canada	1,119,529		PENDING
	China		3004917 -class 1	
MULTI-CODE	European Comm.	002439453		REGISTERED
	Japan	2001-096268		PENDING
	Taiwan	90044052		PENDING
	United States		01018095	REGISTERED
	Australia	76/248,522	2661986	REGISTERED
	Canada	893362	893362	REGISTERED
	China	1,119,530		PENDING
	European Comm.	002439511		PENDING
	Taiwan	90044051		PENDING
	European Comm.	001883511		REGISTERED
SNP-CODE	Japan	2000-107413		PENDING
	United States	75/803,373	2,393,390	REGISTERED
SURF THE GENOME	United States			REGISTERED
	United States			REGISTERED

SIFT (Sequence Identification Using Filtering Technologies)

<u>TRADEMARK DESCRIPTION</u>	<u>COUNTRY</u>	<u>SERIAL NO.</u>	<u>REG. NO.</u>	<u>STATUS</u>
SIFT (Sequence Identification Using Filtering Technologies)	United States	76/248,522	2661986	REGISTERED
	Australia	893362	893362	REGISTERED
	Canada	1,119,530		PENDING
	China			PENDING
	European Comm.	002439511		PENDING
	Taiwan	90044051		PENDING
	European Comm.	001883511		REGISTERED
	Japan	2000-107413		PENDING
	United States	75/803,373	2,393,390	REGISTERED
	United States			REGISTERED