

5/3/06

08-23-2006



OMB No. 0651-0011 (exp. 4/94)

103294408

To the Honorable Commissioner of

original documents or copy thereof.

1. Name of conveying party(ies):

SOMNUS MEDICAL TECHNOLOGIES, INC.

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

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

2. Name of receiving party(ies):

Name: GYRUS ENT L.L.C.

Internal Address:

Street Address: 2925 Appling Road

City: Barlett

State: Tennessee ZIP: 38133

- Individual(s)
- Association
- General Partnership
- Limited Liability Company - State DELAWARE
- Corporation-State
- 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
- Security Agreement
- Other: To correct state of incorporation OF ASSIGNEE
- Merger
- Change of Name

Execution Date: February 28, 2003

ON R/F 002693/0197

4. Trademark Application Serial number(s):

A.

Trademark Registration number(s):

2,271,303; 2,206,753; 2,285,512; 2,367,751; 2,316,068; and 2,450,129

Additional numbers attached?  Yes  No

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

Name: Edward N. Bachand

Internal Address: Dorsey & Whitney LLP

Street Address: SUITE 1000

555 CALIFORNIA STREET

City: SAN FRANCISCO

State: CALIFORNIA ZIP: 94104-1513

6. Total Number of applications and registrations involved: [6]

7. Total fee (37 CFR 3.41) \$240.00

8.  Enclosed

Authorized to be charged to deposit account

9. Deposit account number: 50-2319

OFFICE OF PUBLIC RECORDS  
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FINANCE SECTION

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10. 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.

Edward N. Bachand  
Name of person Signing

Signature

April 24, 2006  
Date

Total number of pages comprising cover sheet: 4

OMB No. 0651-0011 (exp. 4/94)

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FD-1052  
FD-852E

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4827-1260-9280\1

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REEL: 003376 FRAME: 0191

CHECK RETURN TOTAL: \$75.00

# RECORDATION FORM COVER SHEET TRADEMARKS ONLY

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

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

1. Name of conveying party(ies):

SOMNUS MEDICAL 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: February 28, 2003

2. Name and address of receiving party(ies)

Name: GYRUS ENT L.L.C.

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

Street Address: 2925 Appling Road

City: Bartlett State: TN Zip: 38133

- Individual(s) citizenship \_\_\_\_\_  
 Association \_\_\_\_\_  
 General Partnership \_\_\_\_\_  
 Limited Partnership \_\_\_\_\_  
 Corporation-State California  
 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

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

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

B. Trademark Registration No.(s) 2,271,303;  
2,206,753; 2,285,512;  
2,367,751; 2,316,068; and 2,450,129

Additional number(s) attached  Yes  No

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

Name: Edward N. Bachand

Internal Address: DORSEY & WHITNEY LLP

Street Address: SUITE 3400

FOUR EMBARCADERO CENTER

City: SAN FRANCISCO State: CA Zip: 94111

6. Total number of applications and registrations involved: \_\_\_\_\_

6

7. Total fee (37 CFR 3.41).....\$ 240.00

- Enclosed  
 Authorized to be charged to deposit account


8. Deposit account number:

50-2319

DO NOT USE THIS SPACE

B. Signature.

Edward N. Bachand, Reg. No. 37,085  
Name of Person Signing



Signature

March 10, 2003  
Date

Total number of pages including cover sheet, attachments, and document: 4

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

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## ASSIGNMENT OF TRADEMARKS

WHEREAS, Somnus Medical Technologies, Inc., a corporation of the State of California having its principal place of business at 2925 Appling Road, Bartlett, Tennessee 38133 ("Assignor"), is the sole owner of the entire right, title and interest in and to the United States and foreign trademarks and service marks, and trademark and service mark registrations listed in Schedule A attached hereto and hereby made a part hereof (collectively, the "Trademarks") free and clear of any lien, encumbrance, charge, equity or restriction.

WHEREAS, Gyrys ENT L.L.C., a Delaware registered company having a principal place of business at 2925 Appling Road, Bartlett, Tennessee 38133 ("Assignee"), is desirous of acquiring all rights Assignee has or may have, including the entire right, title and interest in and to the Trademarks.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties have agreed to the following:

Assignor does hereby sell, assign, transfer and set over unto Assignee, its successors and assigns, the entire right, title and interest in and to the Trademarks, together with the good will of the business symbolized by the Trademarks, including but without limiting the generality of the foregoing, the right of priority to file corresponding applications in any and all countries, all claims for damages for infringement thereof, including past infringement, and the right to sue and collect such damages; the Trademarks to be held by Assignee for its own use and enjoyment and for the use and enjoyment of its successors and assigns as fully and entirely as they would have been held and enjoyed by Assignor had this assignment and sale not been made.

Assignor hereby authorizes and requests the duly authorized officials of the United States and countries foreign thereto, to take such action as may be required to give effect to the sale, assignment and transfer made herein, including the issuance to Assignee, its successors and assigns, of the full and undivided interest of Assignor in and to any United States and foreign trademarks and service marks, trademark and service mark applications and trademark and service mark registrations to which Assignee is entitled by virtue hereof, for the sole use and benefit of Assignee, its successor and assigns; and Assignor agrees to do all things reasonably necessary to effectuate such sale, assignment and transfer in respect to each such trademark and service mark, and trademark and service mark registration.

IN WITNESS WHEREOF, Assignor has executed and delivered this instrument as of this

28 day of February, 2003.

SOMNUS MEDICAL TECHNOLOGIES, INC.,  
a California corporation

By: Thomas Murphy

Name: Thomas Murphy

Title: PRESIDENT

Witness: A. Good

**SCHEDULE "A"**  
**TRADEMARK REGISTRATIONS**

| Reference No/<br>Country             | MARK            | Serial No/<br>Filing Date        | Registration No/<br>Registration Date |
|--------------------------------------|-----------------|----------------------------------|---------------------------------------|
| TA-64827-3<br>United States          | SOMNOPLASTY     | 75/106,249<br>May 20, 1996       | 2,271,303<br>August 24, 1999          |
| FTA-64827-3-EM<br>European Community | SOMNOPLASTY     | 650086<br>September 30, 1997     | 650085<br>April 27, 1999              |
| FTA-64827-3-AU<br>Australia          | SOMNOPLASTY     | 745473<br>October 3, 1997        | 745473<br>July 17, 1998               |
| FTA-64827-3-CA<br>Canada             | SOMNOPLASTY     | 867,703<br>October 7, 1997       | 502006<br>October 7, 1998             |
| FTA-64827-3-CN<br>China              | SOMNOPLASTY     | 9700108175<br>October 14, 1997   | 1231820<br>December 14, 1998          |
| FTA-64827-3-JP<br>Japan              | SOMNOPLASTY     | 9-165405<br>October 7, 1997      | 4253443<br>March 19, 1999             |
| FTA-64827-3-KR<br>Korea              | SOMNOPLASTY     | 97-14302<br>October 15, 1997     | 50507<br>December 8, 1998             |
| TA-64827-4<br>United States          | SOMNUS & Design | 75/316,982<br>June 30, 1997      | 2,206,753<br>December 1, 1998         |
| FTA-64827-4-EM<br>European Community | SOMNUS & Design | 650069<br>September 30, 1997     | 650069<br>September 23, 1999          |
| FTA-64827-4-AU<br>Australia          | SOMNUS & Design | 745474<br>October 3, 1997        | 745474<br>June 26, 1998               |
| FTA-64827-4-CA<br>Canada             | SOMNUS & Design | 857,704<br>October 2, 1997       | 501,997<br>October 7, 1998            |
| FTA-64827-4-CN-10<br>China           | SOMNUS & Design | 9700108176<br>October 14, 1997   | 1243291<br>January 27, 1999           |
| FTA-64827-4-CN-42<br>China           | SOMNUS & Design | 9700108177<br>October 14, 1997   | 1231821<br>December 14, 1998          |
| FTA-64827-4-JP<br>Japan              | SOMNUS & Design | 09-156406<br>October 7, 1997     | 4398170<br>July 7, 2000               |
| FTA-64827-4-KR-10<br>Korea           | SOMNUS & Design | 97-48237<br>October 15, 1997     | 428790<br>November 9, 1998            |
| FTA-64827-4-KR-42<br>Korea           | SOMNUS & Design | 97-14303<br>October 15, 1997     | 50508<br>December 8, 1998             |
| TA-64827-6<br>United States          | SOMNUS          | 75/576,806<br>October 23, 1998   | 2,285,512<br>October 12, 1999         |
| TA-64827-7<br>United States          | SOMNOPLASTY     | 75/586,617<br>November 2, 1998   | 2,367,751<br>July 18, 2000            |
| TA-64827-8<br>United States          | SOMNOPLASTY     | 75/583,856<br>November 2, 1998   | 2,316,068<br>February 8, 2000         |
| TA-64827-11<br>United States         | CLEAR THE WAY   | 75/801,376<br>September 16, 1999 | 2,450,129<br>May 8, 2001              |

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RECORDED: 05/03/2006

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