

APPENDIX Q - COMMERCIALIZATION ASSISTANCE AGREEMENT

This Agreement is made on _____ ("Effective Date"), by and between Patent Holder, ("Patent Holder") having a principal place of business at _____, and Company _____, ("Company"), having a principal place of business at _____. Patent Holder and Company are referred to from time to time hereinafter as the Parties.

Recitals

WHEREAS Patent Holder filed a PCT patent application (_____) claiming an invention related to _____, which application, along with any continuations, divisionals, foreign filings, and patents issuing therefrom are collectively referred to hereinafter as "The Technology".

WHEREAS Company wishes to obtain exclusive rights to license and/or sell the Technology to one or more third parties.

WHEREAS Patent Holder is willing to provide to Company such rights in accordance with and subject to the terms and conditions contained in this Agreement.

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained, The Parties agree to be legally bound by the following covenants and they agree and certify as follows:

Grant

1. Patent Holder hereby grants to Company Technologies the exclusive right to sell or license any or all of Patent Holder's patent rights that may exist in any country or region with respect to the Technology.
2. Term
3. The term of this Agreement is three (3) years from the effective date of this agreement.
4. The Agreement will be automatically renewed a the conclusion of each three year term for successive three (3) year terms unless either Party gives written notice of termination prior to the expiration of the then-current three year term.

Company Duties to Patent Holder

5. Company shall use its best efforts to: (a) identify one or more suitable third party licensees and/or purchasers for the Technology; (b) negotiate with such third party(ies); and (c) secure suitable licenses and/or sales agreements with such third party(ies).

Patent Holder Duties to Company

6. Patent Holder shall reasonably support Company's commercialization efforts as requested, including:
7. Share Patent Holder's technical expertise relating to the Technology, including providing copies of any support material and documentation in the possession, custody or control of Patent Holder.
8. Make himself reasonably available by telephone to assist Company in negotiations with third parties.
9. Prosecute the _____ application, and any other U.S. and foreign application(s) that Patent Holder deems to be appropriate in his sole judgment.

Terms of Contracts With Third Parties

10. Patent Holder has final authority to approve or deny the terms of any license or sale, with the provision that such approval shall not be unreasonably withheld.

Sharing of Income Or Other Benefits

11. Company shall pay to Patent Holder 50% of all income or other benefit derived by or on behalf of Company, its officers, and/or directors, from licensing or sale of the Technology, regardless of whether such income or other benefit is/are derived during or after the Term.
12. In the event that: (a) Company begins substantive negotiations with a third party during the Term with respect to license or sale of the Technology; (b) Company fails to conclude a license or sale agreement with such third party during Term; and (c) Patent Holder does conclude a license or sale agreement with the third party within 24 (twenty-four) months following expiration or termination of this Agreement, then Patent Holder shall pay Company 50% of all income or other benefit derived by or on behalf of Patent Holder from such agreement with the third party.

13. Offsets

Up to 5% (five percent) of any given quarterly payment due to Patent Holder can be offset up to an accrued total of US\$ 5,000 (Five thousand dollars) for out of pocket transportation and lodging expenses actually and reasonably incurred by Company in performing its duties under this Agreement.

Up to an additional 20% (twenty percent) of any given quarterly payment due to Patent Holder can also be offset up to an accrued total of US\$ 25,000 (twenty-five thousand dollars) for the fee advance provided in section seven herein.

14. Fees contemplated in this section six shall be due and payable 30 days after the end of each calendar quarter, for income or benefits derived during the preceding calendar quarter. Late payments shall be increased by 1% interest per month, or portion thereof. Each payment shall include an accounting of income or benefits realized during the relevant calendar quarter.

Fee Advance

15. Company shall advance Patent Holder US\$ 25,000 (twenty-five thousand dollars) upon Company's execution of this agreement, said advance to be applied against future payments due to Patent Holder by Company. The advance is non-refundable, even if the accrued offsets to the fee advance provided in paragraph 6.3.2 herein are ultimately less than US\$ 25,000 (twenty-five thousand dollars).

Termination

16. Company or Patent Holder each have the right to terminate this Agreement at any time, with or without cause, by giving the other party 120 (one-hundred twenty) days written notice.
17. In addition, either Party may provide a defaulting Party with written Notice by mail, stating that the non-defaulting Party intends to terminate this Agreement, and if the defaulting Party fails to remedy the default within the thirty day period following receipt of such Notice, this Agreement will terminate at the end of the thirty day period.
18. All of the provisions of sections six and ten herein shall survive expiration or termination of this Agreement.

Warranty.

19. Patent Holder warrants has the right to convey the licenses or sales contemplated by this Agreement.

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20. PATENT HOLDER MAKES NO OTHER REPRESENTATION OR WARRANTY, EXPRESS OR IMPLIED, NOR DOES PATENT HOLDER ASSUME ANY OBLIGATIONS WITH RESPECT TO THE INFRINGEMENT OF PATENTS OR OTHER INTELLECTUAL PROPERTY ARISING AS A RESULT OF ANY ACTIVITIES UNDER THIS AGREEMENT.

Miscellaneous

21. Corporate Authority. Company represents and warrants that:

It is a corporation that is validly existing and in good standing under the laws of the jurisdiction in which it is organized;

It has full corporate power to execute, deliver and perform its obligations under this Agreement.

The person executing this Agreement on its behalf has its full authority to do so; and

It shall indemnify, defend and hold the other Party harmless from and against any and all claims that may now or hereafter be made against any of them by virtue of any breach of the provisions of this paragraph.

22. Counterparts. this Agreement may be executed in any number of counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

23. Dispute Resolution. The parties expressly agree to the jurisdiction of the Superior Court of the State of California and to the jurisdiction of the Central District Court of California, with venue in Orange County, California, for the resolution of any dispute concerning the enforcement, breach, interpretation or validity of this Agreement.

Reasonable discovery shall be allowed in arbitration.

All proceedings before the arbitrators shall be held in Orange County, California, under the laws of California.

The award rendered by the arbitrator(s) shall be final and binding, and judgment may be entered in accordance with applicable Law and in any court having jurisdiction thereof.

The award rendered by the arbitrator(s) shall include (i) a provision that the prevailing party in such arbitration recover its costs relating to the arbitration and reasonable attorneys' fees from the other party, (ii) the amount of such costs and fees, and (iii) an order that the losing party pay the fees and expenses of the arbitrator(s).

The arbitrator(s) shall by the agreement of the parties expressly be prohibited from awarding punitive damages in connection with any claim being resolved by arbitration hereunder.

Costs and Fees. In the event that any legal proceedings arise as a result of this Agreement, the prevailing party is entitled to receive attorney fees.

24. Entire Agreement. this Agreement embodies the entire understanding of The Parties and supersedes and replaces any and all pre-existing agreements or understandings between them. No amendment or modification of this Agreement shall be valid or binding upon either of the Parties unless made in writing and signed on behalf of each of The Parties by their respective duly authorized representative.
25. Expected Performance. Each Party herein agrees to perform all acts and execute and deliver all documents as may be necessary or appropriate to carry out the intent and purposes of this Agreement. Each of the Parties recognizes that the other Party may not have an adequate remedy at law for money damages in the event that this Agreement has not been performed in accordance with its terms, and therefore agrees that each Party shall be entitled to specific enforcement of the terms hereof in addition to any other remedy to which it may be entitled, at law or in equity.
26. Failure to Enforce. Failure of any Party herein to enforce any of the terms of this Agreement shall not constitute waiver to enforce that term in the future.
27. Hold Harmless. Each of The Parties hereto shall indemnify and hold the other party, its directors, officers, members, employees, successors, sublicensees, assignees and agents harmless from and against any and all claims arising from acts and omissions of the acting or omitting party, its directors, officers, members, employees, successors, sublicensees, assignees and agents.
28. No Construction. No party hereto nor any attorney for any party shall be deemed the attorney of this Agreement for the purpose of interpreting or construing any of the provisions hereof.
29. Representation by Counsel. Each of The Parties hereto acknowledges that it has had the opportunity to be represented by independent legal counsel of its own choice throughout all of the negotiations that preceded the execution of this Agreement and that each has executed this Agreement with the consent and on the advice of any such independent legal counsel; and further acknowledges that it and any such counsel have had an adequate opportunity to make whatever investigation or inquiry they may deem necessary or desirable in connection with any of the subjects of this Agreement prior to the execution hereof.

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30. Severability. In the event any part or parts of this Agreement are found to be invalid, illegal, or unenforceable in any respect, the remaining provisions shall nevertheless be binding with the same effect as if the invalid, illegal, or unenforceable part or parts were originally deleted.
31. Successors and Assigns. this Agreement shall be binding upon and inure to the benefit of The Parties to this Agreement and their respective successors, sublicensees, assignees and agents.
32. Time of the Essence. Time is of the essence in this Agreement.
33. Transferability. This is a personal service agreement with respect to Company, and Company may not assign any of its rights and privileged to any party unless Patent Holder has given approval to the assignment. Patent Holder may freely assign, license or otherwise transfer his rights and privileges herein without the consent or approval of Company, subject to the requirement that all the terms and conditions of this Agreement shall be binding upon the respective successors and assigns of Patent Holder, and shall insure to the benefit of and be enforceable by Company.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written in multiple counterparts, each of which shall be considered an original.

Date

Patent Holder

By: _____

Date

Company

By: _____

