

05-01-1998



Docket No. 29170-20

100700509

4-27-98

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

1. Name of conveying party(ies): Timothy P. Jenison

Additional name of conveying party attached? ☐ Yes ☒ No

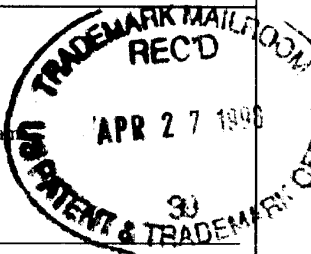
2. Name and address of receiving party(ies)

Name Imperial Bank

Internal Address: _____

Street Address: 226 Airport ParkwayCity: San JoseState CA ZIP 95130-1024Additional name(s) and address(es) attached? ☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment☐ Merger☒ Security Agreement☐ Change of Name☐ Other _____Execution Date: As of April 20, 1998

4. Application number(s) or patent numbers:

If this document is being filed together with a new application, the execution date of the application is: _____

A. Patent Application No.(s)

B. Patent No.(s)

5,068,717

5,175,623

5,402,181

5,426,468

Additional numbers attached? ☐ Yes ☒ No

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

Name Tony Adler, Esq.Address: MITCHELL, SILBERBERG & KNUPP LLPStreet Address 11377 West Olympic BoulevardCity: Los Angeles State CA ZIP 900646. Total number of applications and patents involved: 47. Total fee (37 CFR 3.41) \$160.00☐ Enclosed☐ Any discrepancy or overpayment is authorized to be charged to deposit account

8. Deposit Account number:

20-0051

(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.

Diane Mix

Name of Person Signing

Signature

April 22, 1998

Date

Total number of pages including cover sheet, attachments, and document: 10PATENT
REEL: 9123 FRAME: 0456

**MORTGAGE, ASSIGNMENT AND GRANT OF SECURITY INTEREST
WITH RESPECT TO PATENTS AND OTHER COLLATERAL**

1. KNOW ALL MEN BY THESE PRESENTS, that for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the undersigned, TIMOTHY P. JENISON, an individual (the "Debtor"), having an office in care of Newtek Partners, L.P., 8200 IH-10 West, Suite 900, San Antonio, Texas 78230, does hereby irrevocably mortgages, pledges, assigns and grants a continuing security interest to IMPERIAL BANK, a California chartered bank (the "Secured Party" or "Bank") having an office located at 226 Airport Parkway, San Jose, California 95110-1024, and to the Secured Party's successors and assigns, in all right, title and interest of the Debtor, now owned or hereafter acquired throughout the universe, in and to all of the collateral described in Schedule A attached hereto including, without limitation, (a) the "Patents" (as such term is defined in Schedule A attached hereto), and (b) all accounts and accounts receivable generated by such Patents (all of the foregoing collateral is hereinafter severally and collectively referred to as the "Collateral"), as security for the payment and performance (whether presently existing or hereafter arising) of any and all indebtedness and obligations (collectively, the "Obligations") of (I) the Debtor to the Bank hereunder, and (II) NewTek Partners, L.P., a Texas limited partnership (the "Borrower") to the Bank pursuant to the terms of (i) that certain Security and Loan Agreement dated August 4, 1997, by and between the Borrower and Secured Party, (ii) that certain General Security Agreement dated August 4, 1997, by and between Borrower and Secured Party, (iii) all promissory notes of the Borrower in favor of Secured Party (including, without limitation, that certain Promissory Note dated August 4, 1997, in the original principal amount of \$835,049.77 made by the Borrower in favor of the Secured Party, and that certain Promissory Note dated August 4, 1997, in the original principal amount of \$664,950.24 also made by the Borrower in favor of the Secured Party), and (iv) all other agreements and documents between the Debtor and/or the Borrower, on the one hand, and Secured Party, on the other hand, now existing or hereafter entered into with respect to or in connection with any loans heretofore or hereafter made by the Secured Party to the Borrower, as any of the foregoing may be amended, modified, and/or restated from time to time (collectively, the "Loan Documents").

2. Upon the occurrence of a default or breach by the Borrower under any of the Loan Documents and/or the Debtor hereunder, the Bank may exercise any and all rights and remedies of the Bank under the laws of the State of California and of the United States of America and any other relevant jurisdictions (including, without limitation, any and all rights and remedies as a secured party and mortgagee hereunder).

3. The Debtor does hereby irrevocably appoint the Bank as the Debtor's attorney in fact to do all acts and things permitted or contemplated by the terms hereof. This power of attorney is coupled with an interest and is irrevocable.

The Debtor agrees that if any person, corporation, partnership, trust, limited liability company or other entity shall do or perform any acts which the Bank in its good-faith judgment, believes infringes any right of the Debtor or any right of the Bank to the extent granted hereby, then the Bank may and shall have the right to take

such steps and institute such suits or proceedings as the Bank may in its good-faith judgment deem advisable or necessary to prevent such acts and conduct and to secure damages and other relief by reason thereof and to generally take such steps as may be advisable or necessary or proper in the Bank's good-faith judgment for the full protection of the rights of the parties, but the Bank shall not be obligated to do any of the foregoing. The Bank may take such steps or institute such suits or proceedings in its own name or in the name of the Debtor or in the names of the parties jointly.

4. This Mortgage, Assignment and Grant of Security Interest With Respect to Patents and Other Collateral (this "Agreement") shall (i) for the avoidance of doubt, constitute a "security agreement", and (ii) in all respects be subject to, construed in accordance with and governed by, the laws of the State of California without giving effect to that State's choice of law rules.

5. Other than (i) non-judicial foreclosure and all matters in connection therewith regarding security interests in real or personal property; or (ii) the appointment of a receiver, or the exercise of other provisional remedies (any and all of which may be initiated pursuant to applicable law), each controversy, dispute or claim between the parties arising out of or relating to this Agreement or any other instruments, documents, or agreements executed by either or both of the parties with respect to or in connection with any Obligations or Collateral (collectively, the "Mortgage Documents"), which controversy, dispute or claim is not settled in writing within thirty (30) days after the "Claim Date" (defined as the date on which a party subject to this Agreement gives written notice to all other parties that a controversy, dispute or claim exists), will be settled by a reference proceeding in California in accordance with the provisions of Section 638 et seq. of the California Code of Civil Procedure ("CCP"), or their successor section, which shall constitute the exclusive remedy for the settlement of any controversy, dispute or claim concerning this Agreement, including whether such controversy, dispute or claim is subject to the reference proceeding and except as set forth above, the parties waive their rights to initiate any legal proceedings against each other in any court or jurisdiction other than the Superior Court of the County of Los Angeles (the "Court"). The referee shall be a retired Judge of the Court selected by mutual agreement of the parties, and if they cannot so agree within forty-five (45) days after the Claim Date, the referee shall be promptly selected by the Presiding Judge of the Court (or his or her representative). The referee shall be appointed to sit as a temporary judge, with all of the powers for a temporary judge as authorized by law, and upon selection should take and subscribe to the oath of office as provided for in Rule 244 of the California Rules of Court (or any subsequently enacted Rule). Each party shall have one peremptory challenge pursuant to CCP Section 170.6. The referee shall (a) be requested to set the matter for hearing within sixty (60) days after the Claim Date and (b) try any and all issues of law or fact and report a statement of decision upon them, if possible, within ninety (90) days of the Claim Date. Any decision rendered by the referee will be final, binding and conclusive and judgment shall be entered pursuant to the CCP Section 644 in any court in the State of California having jurisdiction. Any party may apply for a reference proceeding at any time after thirty (30) days following notice to any other party of the nature of the controversy, dispute or claim, by filing a petition for a hearing and/or trial.

All discovery permitted by this Agreement shall be completed no later than fifteen (15) days before the first hearing date established by the referee. The referee may extend such period in the event of a party's refusal to provide the requested discovery for any reason whatsoever, including, without limitation, legal objections raised to such discovery or unavailability of a witness due to absence or illness. No party shall be entitled to priority in conducting discovery. Depositions may be taken by either party upon seven (7) days written notice, and request for production or inspection of documents shall be responded to within ten (10) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding upon the parties. Pending appointment of the referee as provided herein, the Court is empowered to issue temporary and/or provisional remedies, as appropriate.

Except as expressly set forth in this Agreement, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of all hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee. The party making such a request shall have the obligation to arrange for and pay for the court reporter. The costs of the court reporter at the trial shall be borne equally by the parties.

The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, to provide all temporary and/or provisional remedies and to enter equitable orders that will be binding upon the parties. The referee shall issue a single judgment at the close of the reference proceeding which shall dispose of all of the claims of the parties that are the subject of the reference. The parties hereto expressly reserve the right to contest or appeal from the final judgment or any appealable order or appealable judgement entered by the referee. The parties hereto expressly reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

In the event that the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by the reference procedure herein described will be resolved and determined by arbitration. The arbitration will be conducted by a retired Judge of the Court, in accordance with Section 1280 through Section 1294.2 of the CCP as amended from time to time. The limitations with respect to discovery as set forth hereinabove shall apply to any such arbitration proceeding.

6. The Debtor further represents, warrants, covenants and agrees as follows:

(a) Performance of this Agreement does not conflict with or result in a breach of any material agreement to which the Debtor is party or by which the Debtor is bound;

(b) To his knowledge, each of the Patents is valid and enforceable, and no part of the Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Collateral violates the rights of any third party; and

(c) The Debtor shall (i) promptly notify the Bank in writing of any Patents, trademarks, copyrights or other intellectual property in which both (a) the Debtor has any right, title or interest of any nature (including, without limitation, whether as a proprietary owner, licensor or licensee thereof) and (b) which is utilized or exploited in any way by the Borrower or any affiliated entities of the Borrower (including any subsidiaries thereof), (ii) protect, defend and maintain the validity and enforceability of the Patents, (iii) use commercially reasonable efforts to detect infringements of the Patents and promptly advise Bank in writing of material infringements detected, and (iv) not allow any Patents to be abandoned, forfeited or dedicated to the public without the written consent of Bank, which shall not be unreasonably withheld unless the Debtor determines that reasonable business practices suggest that abandonment is appropriate.

7. On a continuing basis, the Debtor will make, execute, acknowledge and deliver, and file and record in the proper filing and recording places in the United States, all such instruments, including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office, and take all such action as may reasonably be deemed necessary or advisable, or as reasonably requested by Bank, to perfect (and maintain perfection of) Bank's security interest in all Collateral (including, without limitation, the Patents) and otherwise to carry out the intent and purposes of this Agreement or for assuring and confirming to Bank the grant or perfection of a security interest in all Collateral.

8. To the extent that the Debtor may be deemed an accommodation party or may otherwise have rights or defenses of a guarantor or surety available to it hereunder or otherwise, all such rights and defenses are hereby waived by the Debtor, including, without limitation:

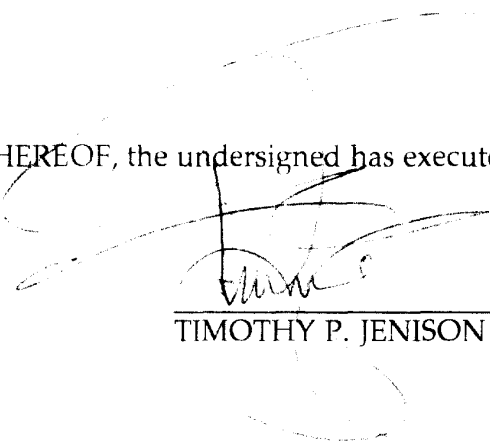
(a) Further authorization from or notice to the Debtor even though the Borrower's financial condition may have deteriorated since the date hereof;

(b) The right of the Debtor to notice prior to such time as the Bank may, if ever, alter, compromise, accelerate, extend or change the time or manner for the payment of any indebtedness hereby secured, increase or reduce the rate of interest, if any thereon, release or add any one or more

co-signers, guarantors, sureties or endorsers, accept additional or substituted security therefor, or release or subordinate any security therefor. No exercise or non-exercise by the Bank of any right hereby given it, no dealing by the Bank with the Borrower or any other person, firm, corporation or other entity (including co-sureties), and no change, impairment or suspension of any right or remedy of the Bank shall in any way affect any of the obligations of the Debtor hereunder or give the Debtor any recourse against the Bank; and

(c) Any right to require the Bank to proceed against the Borrower or any other person, firm, corporation or other entity or to proceed against or exhaust any security held by the Bank at any time or to pursue any other remedy in its power; the defense of the statute of limitations in any action hereunder or for the collection of any indebtedness or the performance of any of the obligations hereby secured; any defense that may arise by reason of the incapacity, lack of authority, death, disability or dissolution of, or revocation hereof by the Borrower, the Debtor or any other or others or the failure of the Bank to file or enforce a claim against the estate (either in administration, bankruptcy or other proceeding) of the Borrower or any other or others; demand, protest and notice of any kind, including, without limiting the generality of the foregoing, notice of the existence, creation or incurring of new or additional indebtedness or of any action or non-action on the part of the Borrower, any endorser or creditor of the Borrower under any instrument, or any other person, firm, corporation or other entity whomsoever, in connection with any of the obligations hereby secured or otherwise or evidence of any indebtedness hereby secured; any defense based upon an election of remedies by the Bank, including, without limitation, an election to proceed by non-judicial rather than judicial foreclosure, which election destroys or otherwise impairs subrogation rights of the Debtor or the right of the Debtor to proceed against the Borrower or any other person, firm, corporation or other entity for reimbursement, or both; and any duty upon the part of the Bank to disclose to the Debtor any facts that it may now or hereafter know about the Borrower or any other person, firm, corporation or other entity regardless of whether the Bank has reason to believe that any such facts materially increase the risk beyond that which the Debtor intends to assume or have reason to believe that such facts are unknown to the Debtor or has a reasonable opportunity to communicate such facts to the Debtor, it being understood and agreed that the Debtor is fully responsible for being and keeping informed of the financial condition of the Borrower and of all circumstances bearing on the risk of non-payment of any indebtedness hereby secured.

IN WITNESS WHEREOF, the undersigned has executed this instrument as
of the 20th day of April, 1998.



TIMOTHY P. JENISON

ALL-PURPOSE ACKNOWLEDGMENT

<p>State of California <u>TEXAS</u>) County of <u>BEXAR</u>)</p> <p>On <u>APRIL 21</u>, 199<u>8</u> before me, <u>PHILLIP G. MARTIN</u> DATE personally appeared <u>TIM JENISON</u> NAME(S) OF SIGNER(S)</p> <p><input checked="" type="checkbox"/> personally known to me -OR- <input type="checkbox"/> proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.</p> <p>Witness my hand and official seal.</p> <p><u>Phillip G. Martin</u> SIGNATURE OF NOTARY</p>		<p>CAPACITY CLAIMED BY SIGNER</p> <p><input checked="" type="checkbox"/> INDIVIDUAL(S) <input type="checkbox"/> CORPORATE OFFICER(S) _____ TITLE(S) _____</p> <p><input type="checkbox"/> PARTNER(S) <input type="checkbox"/> ATTORNEY-IN-FACT <input type="checkbox"/> TRUSTEE(S) <input type="checkbox"/> SUBSCRIBING WITNESS <input type="checkbox"/> GUARDIAN/CONSERVATOR <input type="checkbox"/> OTHER: _____</p> <p>SIGNER IS REPRESENTING: NAME OF PERSON(S) OR ENTITY(IES) <u>SELF</u></p>
<p>OPTIONAL SECTION</p> <p>THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED AT RIGHT:</p> <p>Though the data requested here is not required by law, it could prevent fraudulent reattachment of this form.</p> <p>TITLE OR TYPE OF DOCUMENT: <u>Mortgage, Assignment and Grant of Security Interest With Respect to Patents and Other Collateral</u></p> <p>NUMBER OF PAGES _____ DATE OF DOCUMENT _____</p> <p>SIGNER(S) OTHER THAN NAMED ABOVE <u>xxx</u></p>		

DEBTOR: TIMOTHY P. JENISON

SECURED PARTY: IMPERIAL BANK, A CALIFORNIA CHARTERED BANK

SCHEDULE A

(A) (i) all of the following personal property of Debtor whether presently existing or hereafter invented, created, written, produced or acquired: (a) all patents and patent applications filed in the United States Patent and Trademark Office (including, without limitation, the patents and/or patent applications listed on Schedule 1 attached hereto), and interests under patent license agreements, including, without limitation, the inventions and improvements described and claimed therein, (b) licenses pertaining to any patent whether Debtor is licensor or licensee, (c) all income, royalties, damages, payments, accounts and accounts receivable now or hereafter due and/or payable under and with respect thereto, including, without limitation, damages and payments for past, present or future infringements thereof, (d) all rights corresponding thereto throughout the world in all jurisdictions in which such patents have been issued or applied for, and (e) the reissues, divisions, continuations, renewals, extensions and continuations-in-part with any of the foregoing (all of the foregoing patents and applications and interests under patent license agreements, together with the items described in clauses (a) through (e) in this paragraph are sometimes herein individually and collectively referred to as the "Patents"), and (ii) all products and proceeds including, without limitation, insurance proceeds, of any of the foregoing.

DEBTOR: TIMOTHY P. JENISON

SECURED PARTY: IMPERIAL BANK, A CALIFORNIA CHARTERED BANK

SCHEDULE 1

PATENTS

<u>Patent or Application Number</u>	<u>Description</u>	<u>Date of Issuance or Filing</u>
1. 5,068,717	Method and apparatus for synchronization in a digital composite video system (color lock, horizontal sync)	11/26/91
2. 5,175,623	Method and apparatus for linear video mixer with digital control (video mixer)	12/29/92
3. 5,402,181	Method and apparatus for utilizing lock-up tables for color graphics in the digit composite video domain (Lut)	3/28/95
4. 5,426,468	Method and apparatus for utilizing lock-up tables for color graphics in the digit composite video domain (Lut-Divisional)	6/20/95

RNA_D104.RV3