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RECORDATION FORM PATENTS C

07-19-1999

FORM PTO-1595 (Rev. 6-93) OMB No. 0651-0011 (exp. 4/94)



COMMERCE mark Office

101092912

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

1. Name of conveying party(ies): Jill Ammerman and Brian Lapointe

2. Name and address of receiving party(ies)

Name: AirPacks, Inc.

Internal Address:

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

3. Nature of conveyance:

- [x] Assignment [ ] Merger [ ] Security Agreement [ ] Change of Name [ ] Other

Street Address: P. O. Box 120

Prides Crossing, Massachusetts 01965

Execution Date: May 13, 1999

Additional name(s) & addresses(es) attached? [ ] Yes [ ] No

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

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

A. Patent Application No.(s) (29/086,446)

B. Patent No.(s)

Additional numbers attached? [ ] Yes [ ] No

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

Name: Randy J. Pritzker Address: WOLF, GREENFIELD & SACKS, P.C. Federal Reserve Plaza 600 Atlantic Avenue Boston, MA 02210

6. Total number of applications and patents involved: [1]

7. Total fee (37 CFR 3.41).....\$ 40.00

[X] Enclosed

[ ] Authorized to be charged to deposit account

The Commissioner is authorized to charge:

8. Deposit Account No: 23/2825

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.

Randy J. Pritzker

Randy J. Pritzker

7/13/99

Name of Person Signing

Signature

Date

07/16/1999 MTHAI1 00000199 29086446

01 FO:581

Total number of pages including cover sheet, attachments, and document: [7]

Mail documents to be recorded with required cover sheet information to:

Box Assignment, Commissioner of Patents and Trademarks, Washington, D.C. 20231

**ASSIGNMENT OF PATENT APPLICATION,  
CONFIDENTIALITY AND NON-COMPETE AGREEMENT**

This ASSIGNMENT is made as of the 13 day of MAY, 1999 by and among Jill Greene Ammerman of 45 West St. Beverly, MA and Brian Lapointe of 53 Jeddens Lane, Rockport, MA (hereinafter referred to collectively as the "Assignors," and individually as an "Assignor"), and AirPacks, Inc., of P.O. Box 120, Prides Crossing, Massachusetts, 01965 (hereinafter referred to as "Assignee").

WHEREAS, Assignors are the founders and the principal stockholders of Assignee;

WHEREAS, Assignors are co-inventors of the invention (the "Invention") described and set forth in the application for United States Letters Patent identified below (the "Patent Application"):

"Backpack" (U.S. Serial } *See attached for*  
No. 09/078462); *all patents affected*

WHEREAS, Assignee is desirous of acquiring all right, title and interest in and to the Invention and Patent Application and in any U.S. or foreign Letters Patents and Registrations which may be granted on the same;

WHEREAS, Assignors wish to acknowledge their agreement and understanding regarding their obligations with respect to proprietary information, developments and non-competition.

NOW, THEREFORE, for good and valuable consideration, including without limitation, the shares of Assignee's capital stock issued to the Assignors and other compensation paid to the Assignors from time to time, receipt of which is hereby acknowledged, the parties hereto hereby agree as follows.

1. Assignment of Patent Application.

(a) Each Assignor does hereby assign to Assignee all right, title and interest in and to the Inventions, all know-how embodied therein or related thereto, the Patent Application and all foreign counterparts (including patent, utility model and industrial designs), and any Letters Patents and Registrations which may hereafter be granted on the same in the United States and all countries throughout the world, and to claim the priority from the Patent Application or future applications as provided by the Paris Convention. The right, title and interest is to be held and enjoyed in perpetuity by Assignee and Assignee's successors and assigns as fully and exclusively as it would have been held and enjoyed by Assignors had this assignment not been made, for the full term of any Letters Patents and Registrations which may be granted thereon, or of any divisions, renewals, continuations in whole or in part, substitutions, conversions, reissues, prolongations or extensions thereof, and thereafter.

(b) Assignors further agree that Assignors will, without charge to Assignee, but at Assignee's expense, (i) cooperate with Assignee in the prosecution of U.S. Patent

applications and foreign counterparts on the Invention and any improvements, (ii) execute, verify, acknowledge and deliver all such further papers, including patent applications and instruments of transfer and (iii) perform such other acts as Assignee lawfully may request to obtain or maintain Letters Patents and Registrations for the Invention and improvements in any and all countries, and to vest title thereto in Assignee, or Assignee's successors and assigns.

## 2. Proprietary Information.

(a) Assignors agree that all information and know-how, whether or not in writing, of a private, secret or confidential nature concerning the Assignee's business, operations, marketing, research and development or financial affairs (collectively, "Proprietary Information") is and shall be the exclusive property of the Assignee. Each Assignor acknowledges that his or her relationship with the Assignee is one of high trust and confidence and that in the course of rendering services to the Assignee, he or she will have access to and contact with Proprietary Information. By way of illustration, but not limitation, Proprietary Information may include inventions, products, processes, methods, techniques, formulas, compositions, compounds, projects, developments, plans, research data, clinical data, financial data, personnel data, computer programs, marketing plans, promotional literature and customer and supplier lists. Proprietary Information shall also include "Developments" (as defined below).

(b) Each Assignor hereby agrees that he or she will not and shall ensure that none of their agents or other third parties within Assignor's control, disclose any Proprietary Information to others outside the Assignee or use the same, directly or indirectly, for any unauthorized purposes without written approval by the Assignee, unless and until such Proprietary Information has become public knowledge without fault by such Assignor.

(c) Each Assignor agrees that all files, letters, memoranda, reports, records, data, sketches, drawings, laboratory notebooks, program listings, or other written, photographic, electronic or other material containing Proprietary Information, whether created by such Assignor or others, which shall come into such Assignor's custody or possession, shall be and are the exclusive property of the Assignee to be used by such Assignor only in the performance of his or her duties for the Assignee.

(d) Each Assignor agrees that his or her obligation not to disclose or use Proprietary Information of the Assignee, also extends to such types of information, know-how, records and other property of customers of the Assignee or suppliers to the Assignee or other third parties who may have disclosed or entrusted the same to the Assignee or to such Assignor in the course of the Assignee's business.

(e) Upon termination of Assignor's engagement by the Assignee or at any other time upon request by the Assignee, each Assignor shall promptly deliver to the Assignee all records, files, memoranda, notes, designs, data, reports, price lists, customer lists, drawings, plans, computer programs, software, software documentation, sketches, laboratory and research notebooks and other documents and materials (and all copies or reproductions of such materials) relating to the business of the Assignee.

### 3. Developments.

(a) Each Assignor will make full and prompt disclosure to the Assignee of all inventions, improvements, discoveries, methods, developments, software, and works of authorship, whether patentable or copyrightable, which are related in any way to the Assignee's business that may be created, made, conceived or reduced to practice by such Assignor or by independent contractors engaged by such Assignor, if any, or otherwise created under such Assignor's direction or jointly with others (all of which are collectively referred to in this Agreement as "Developments").

(b) Each Assignor agrees to assign and does hereby assign to the Assignee (or any person or entity designated by the Assignee) all of his or her right, title and interest in and to all Developments and all related patents, patent applications, copyrights and copyright applications. Upon the request of the Assignee and at the Assignee's expense, each Assignor shall execute such further assignments, documents and other instruments as may be necessary or desirable to fully and completely assign all Developments to the Assignee.

(c) Notwithstanding the foregoing, copyrightable developments shall be considered to be "works made for hire" (as such term is defined in the U.S. Copyright Act), and as such shall be created by Assignors for the exclusive benefit of the Assignee. To the extent that any Development does not qualify as a "work made for hire," all right, title and interest in and to such Development, or portion thereof, shall be assigned by Assignors to the Assignee for no additional consideration in accordance with the preceding paragraph.

(d) Each Assignor agrees to cooperate fully with the Assignee, with respect to the procurement, maintenance and enforcement of copyrights, patents and all other intellectual property rights (both in the United States and foreign countries) relating to Developments. Each Assignor shall sign all papers, including, without limitation, copyright applications, patent applications, declarations, oaths, formal assignments, assignment of priority rights, and powers of attorney, which the Assignee may deem necessary or desirable in order to protect its rights and interests in any Development.

(e) Each Assignor represents that his or her retention by the Assignee and his or her performance of services for the Assignee does not, and shall not, breach any agreement that obligates such Assignor to keep in confidence any trade secrets or confidential or proprietary information of such Assignor or of any other party or to refrain from competing, directly or indirectly, with the business of any other party. Each Assignor shall not disclose to the Assignee any trade secrets or confidential or proprietary information of any other party.

### 4. Non-Compete.

(a) During the period when each Assignor is providing services to the Assignee and for a period of two (2) years thereafter, such Assignor will not directly or indirectly and shall ensure that none of its employees or other agents:

(i) as an individual proprietor, partner, stockholder, officer, employee, director, joint venturer, investor, lender, or in any other capacity whatsoever (other than as the holder of not more than five percent (5%) of the total outstanding stock of a

publicly held Company), engage anywhere in the United States in the business of developing, producing, marketing or selling products of the kind or type developed or being developed, produced, marketed or sold by the Assignee (the "Business"); or

(ii) offer consulting or other services to a business engaged in or attempting to engage in the Business; or

(iii) recruit, solicit or induce, or attempt to induce, any employee or independent contractor of the Assignee to terminate their employment with, or otherwise cease their relationship with, the Assignee; or

(iv) solicit, divert or take away, or attempt to divert or to take away, the business or patronage of any of the clients, customers or accounts, or prospective clients, customers or accounts, of the Assignee.

(b) If any restriction set forth in this Section 4 is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic area as to which it may be enforceable.

#### 5. Remedies.

Each Assignor acknowledges that any breach of the provisions of this Agreement shall result in serious and irreparable injury to the Assignee for which the Assignee cannot be adequately compensated by monetary damages alone. Each Assignor agrees, therefore, that, in addition to any other remedy it may have, the Assignee shall be entitled to enforce the specific performance of this Agreement by each Assignor and to seek both temporary and permanent injunctive relief (to the extent permitted by law) without the necessity of proving actual damages.

*[Remainder of Page Intentionally Left Blank]*

IN TESTIMONY WHEREOF, Assignors and Assignee have executed this Assignment under seal as of the date indicated above.

Witness:

Jill Greene Ammerman  
Print Name:

Brian Lapointe  
Print Name:

ASSIGNORS:

Jill Greene Ammerman  
Jill Greene Ammerman

Brian Lapointe  
Brian Lapointe

ASSIGNEE:

AirPacks, Inc., a Massachusetts corporation

By: Jill Greene Ammerman  
Jill Greene Ammerman, President

**AIRTEC PACK**  
**Patent Applications**

Title: Backpack  
Serial Number: 09/078462  
Filed: 05/14/98

Title: Shoulder Strap  
Serial Number: 29/086447  
Filed: 04/09/98

Title: Backpack  
Serial Number: 29/086448  
Filed: 04/09/98

Title: Backpack with Open Flaps  
Serial Number: 29/086446  
Filed: 04/09/98

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

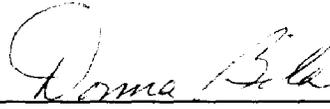
Applicant(s): Jill Ammerman and Brian Lapointe  
Serial No.: 29/086,446  
Filed: April 9, 1998  
For: BACKPACK WITH OPEN FLAPS

Examiner: ----  
Art Unit: 2914

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**Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to Box Assignment, Commissioner of Patents and Trademarks, Washington, D.C. 20231 on the 13<sup>th</sup> of July 1999.

  
\_\_\_\_\_  
Donna Bila

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**BOX ASSIGNMENT**  
COMMISSIONER OF PATENTS AND TRADEMARKS  
WASHINGTON, D.C. 20231

Sir:

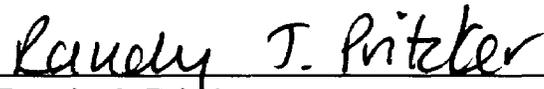
Transmitted herewith is/are the following document(s):

- Assignment of the Invention to AirPacks, Inc.
- Patent Assignment Recordation Form Cover Sheet (Form PTO-1595)
- Return Receipt Postcard

If the enclosed papers are considered incomplete, the Mail Room and/or the Application Branch is respectfully requested to contact the undersigned at (617) 720-3500, Boston, Massachusetts.

A check in the amount of \$40.00 is enclosed. If the fee is insufficient, the balance may be charged to the account of the undersigned, Deposit Account No. 23/2825. A duplicate of this sheet is enclosed.

Respectfully submitted,



Randy J. Pritzker

Reg. No. 35,986

Wolf, Greenfield & Sacks, P.C.

600 Atlantic Avenue

Boston, Massachusetts 02210-2211

(617) 720-3500

Date: July 13, 1999

**XNDD**

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

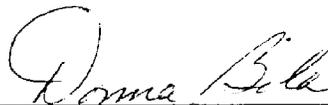
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XNDD