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ASSIGNMENT RECORDATION



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

November 4, 1999
Docket No. 9013-6

1. Name of Inventor:

David Patrick

2. Name and address of Assignee:

John McGavigan Limited
Woodlife Road
Kirkintilloch
Glasgow, G66 3UW
Scotland, United Kingdom

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

3. Nature of conveyance:

- Assignment
- Merger
- Security Agreement
- Change of Name
- Other Affidavit of Agnes Lawrie Addie Macpherson

Execution Date: 10/8/99

Additional name(s) & address(es) attached? ___ Yes No

4. Application Serial No. 09/051,950 Patent No.

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

Additional numbers attached? ___ Yes No

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

F. Michael Sajovec
Myers Bigel Sibley & Sajovec
P. O. Box 37428
Raleigh NC 27627

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41) \$ 40.00
 Enclosed
 Authorized to be charged to deposit account

8. Deposit account number: 50-0220

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.

F. Michael Sajovec - 31,793
Name of Person Signing

Signature

November 4, 1999
Date

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

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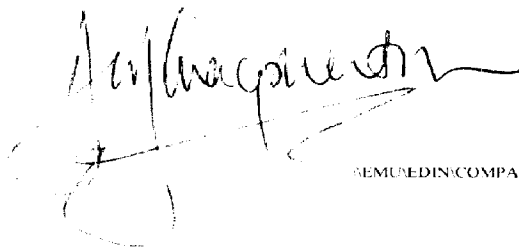
AGNES LAWRIE ADDIE MACPHERSON

At *Edinburgh* on *13th October 1999* in the presence of *Susan McGrover*
Notary Public COMPEARED Agnes Lawrie Addie Macpherson, aged
41, solicitor, residing at East Court, Newton, West Lothian, EH52 6QH who, being solemnly
sworn, depones as follows:-

- 1 My full name is Agnes Lawrie Addie Macpherson. I am 41 years of age. I live at East Court, Newton, West Lothian, EH52 6QH. I am a Solicitor qualified under Scots and English law. I am a Partner with the firm of McGrigor Donald Solicitors and am based at the firm's offices at Erskine House, 68-73 Queen Street, Edinburgh, EH2 4NF. I specialise in intellectual property law. John McGavigan Limited, and its group companies, are clients of McGrigor Donald and I advise them inter alia in relation to intellectual property matters.

- 2 I make this Affidavit to explain the applicable law relating to ownership of inventions and the right to apply for patents therefor and, in particular, in connection with ownership of and the right to apply for a patent for the invention the subject of International Application No PCT/GB96/02645 ("the Invention"). The Inventor is David Patrick, an employee of John McGavigan Limited. The invention was developed in Kirkintilloch, Glasgow, Scotland. The law applying to ownership of the invention is therefor Scots law.

- 3 The law in Scotland as to the ownership of employees' inventions is to be found in the Patents Act 1977 ("the Act"). Section 39(1) of the Act sets out the circumstances in which an invention made by an employee shall be owned by his employer. It states that "an invention made by an employee shall, as between him and his employer, be taken to belong to his employer for the purposes of this Act and for all other purposes, if:-



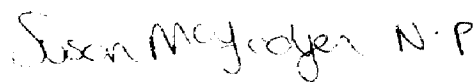
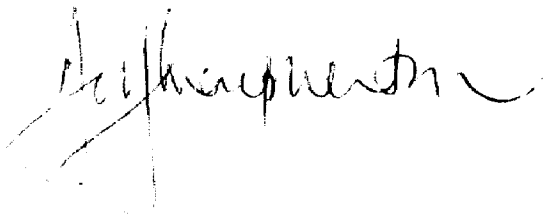
Susan McGrover N.P.

- “(a) it was made in the course of the normal duties of the employee or in the course of duties falling outside his normal duties, but specifically assigned to him, and the circumstances in either case were such that an invention might reasonably be expected to result from the carrying out of his duties; or
- (b) the invention was made in the course of the duties of the employee, and, at the time of making the invention, because of the nature of his duties and the particular responsibilities arising from the nature of his duties he had a special obligation to further the interests of the employer’s undertaking.”

Section 39(2) provides that:

“Any other invention made by an employee shall, as between him and his employer, be taken for those purposes to belong to the employee.”

I have read the Affidavit of Alistair Hunter Munro relating to this matter. On the basis of the facts set out therein, David Patrick developed the Invention in the course of his normal duties and in circumstances where an invention might reasonably have been expected to have resulted from his duties. Thus in terms of Scots law, his employer, is the owner of the Invention. From the Affidavit of Alistair Hunter Munro, when he started work on the invention, David Patrick was employed by John McGavigan & Co Limited. All the assets of that company, including any rights to inventions owned by it, were transferred to its parent company, John McGavigan Limited (then called John McGavigan Holdings Limited) in August 1995. At the same time, David Patrick's employment was transferred to John McGavigan Limited (then called John McGavigan Holdings Limited). Therefore John McGavigan Limited is entitled to the whole of the property in the Invention, because:- (a) to the extent invented while David Patrick was employed by John McGavigan & Co. Limited it was owned by that company and then transferred, as explained above to John McGavigan Limited; and (b) to the extent invented while David Patrick was employed by John McGavigan Limited, is owned by that company, as his employer.



"A patent for an invention may be granted -

- (a) primarily to the inventor or joint inventor;
- (b) in preference to the foregoing, to any person or persons who, by virtue of any enactment or rule of law, or any foreign law or treaty or international convention, or by virtue of an enforceable term of any agreement entered into with the inventor before the making of the invention, was or were at the time of the making of the invention entitled to the whole of the property in it (other than equitable interests) in the United Kingdom"

As explained in paragraph 4 above, John McGavigan Limited is entitled to the whole of the property in the Invention. Pursuant to Section 7 of the Act therefore, John McGavigan Limited and not the inventor, David Patrick, is entitled to the grant of a patent for the Invention.

ALL OF WHICH IS TRUTH AS THE DEPONENT SHALL ANSWER TO GOD

Deponent *John McGavigan*

Notary Public *Susan McJogher*
Notary Public
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Susan McJogher

John McGavigan