

07-25-2000



101413004

**RECORDATION FORM COVER SHEET  
PATENTS ONLY**

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

**Submission Type**

New

Resubmission (Non-Recordation)  
Document ID# \_\_\_\_\_

Correction of PTO Error  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

Corrective Document  
Reel # \_\_\_\_\_ Frame # \_\_\_\_\_

**Conveyance Type**

Assignment

License

Merger

Security Agreement

Change of Name

Other \_\_\_\_\_

**U.S. Government**  
(For Use ONLY by U.S. Government Agencies)

Departmental File     Secret File

**Conveying Party(ies)**

Mark if additional names of conveying parties attached

Name (line 1) Whisper Communications, Inc.    Execution Date 06192000  
Month Day Year

**Second Party**

Name (line 1) \_\_\_\_\_    Execution Date \_\_\_\_\_  
Month Day Year

Name (line 2) \_\_\_\_\_

**Receiving Party**

Mark if additional names of receiving parties attached

If document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative is attached. (Designation must be a separate document from Assignment.)

Name (line 1) Safeguard Delaware, Inc.

Name (line 2) \_\_\_\_\_

Address (line 1) 800 The Safeguard Building

Address (line 2) 435 Devon Park Drive

Address (line 3) Wayne    PA    19087  
City State/Country Zip Code

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name \_\_\_\_\_

Address (line 1) \_\_\_\_\_

Address (line 2) \_\_\_\_\_

Address (line 3) \_\_\_\_\_

Address (line 4) \_\_\_\_\_

**FOR OFFICE USE ONLY**

07/24/2000 MTHA11 00000175 09325094  
01 FC:581 280.00 OP

Public burden reporting for this collection of information is estimated to average approximately 30 minutes per Cover Sheet to be recorded, including time for reviewing the document and gathering the data needed to complete the Cover Sheet. Send comments regarding this burden estimate to the U.S. Patent and Trademark Office, Chief Information Officer, Washington, D.C. 20231 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (0651-0027), Washington, D.C. 20503. See OMB Information Collection Budget Package 0651-0027, Patent and Trademark Assignment Practice. DO NOT SEND REQUESTS TO RECORD ASSIGNMENT DOCUMENTS TO THIS ADDRESS.

Mail documents to be recorded with required cover sheet(s) information to:  
Commissioner of Patents and Trademarks, Box Assignments, Washington, D.C. 20231

**REEL: 010927 FRAME: 0775**

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Pages**

Enter the total number of pages of the attached conveyance document including any attachments.

#

**Application Number(s) or Patent Number(s)**

Mark if additional numbers attached

Enter either the Patent Application Number or the Patent Number (DO NOT ENTER BOTH numbers for the same property).

**Patent Application Number(s)**

**Patent Number(s)**

If this document is being filed together with a new Patent Application, enter the date the patent application was signed by the first named executing inventor.

Month Day Year

**Patent Cooperation Treaty (PCT)**

Enter PCT application number only if a U.S. Application Number has not been assigned.

PCT

PCT

PCT

PCT

PCT

PCT

**Number of Properties**

Enter the total number of properties involved.

#

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment:  
Deposit Account

Enclosed

Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.)

Deposit Account Number:

#

Authorization to charge additional fees:

Yes

No

**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. Charges to deposit account are authorized, as indicated herein.

Roberto Kampfner

*By: David Hite*

6/23/00

Name of Person Signing

Signature

Date

## PATENT AND TRADEMARK SECURITY AGREEMENT

THIS PATENT AND TRADEMARK SECURITY AGREEMENT (this "Agreement"), dated as of June 19, 2000, is made between Whisper Communications, Inc., a California corporation ("Grantor"), and Safeguard Delaware, Inc., a Delaware corporation for the ratable benefit of the Lenders ("Secured Party").

Grantor and Secured Party hereby agree as follows:

### SECTION 1 Definitions; Interpretation.

(a) Terms Defined in Security Agreement. All capitalized terms used in this Agreement and not otherwise defined herein shall have the meanings assigned to them in the Security Agreement.

(b) Certain Defined Terms. As used in this Agreement, the following terms shall have the following meanings:

"Collateral" has the meaning set forth in Section 2.

"PTO" means the United States Patent and Trademark Office.

"Security Agreement" means the Security Agreement dated as of June 19, 2000 between Grantor and Secured Party.

(c) Terms Defined in UCC. Where applicable and except as otherwise defined herein, terms used in this Agreement shall have the meanings assigned to them in the UCC.

(d) Interpretation. The rules of interpretation applicable to the Security Agreement shall also be applicable to this Agreement and are incorporated herein by this reference.

### SECTION 2 Security Interest.

(a) Grant of Security Interest. As security for the payment and performance of the Obligations, Grantor hereby assigns, transfers and conveys to the Secured Party for the ratable benefit of the Lenders, and grants a security interest in and mortgage to the Secured Party for the ratable benefit of the Lenders, all of Grantor's right, title and interest in, to and under the following property, in each case whether now or hereafter existing or arising or in which Grantor now has or hereafter owns, acquires or develops an interest and wherever located (collectively, the "Collateral"):

(i) all patents and patent applications, domestic or foreign, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses (including such patents and patent applications as described in Schedule A), all rights to sue for past, present or future infringement thereof, all rights arising therefrom and pertaining thereto and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof;

(ii) all state (including common law), federal and foreign trademarks, service marks and trade names, and applications for registration of such trademarks, service marks and trade names, all licenses relating to any of the foregoing and all income and royalties with respect to any licenses (including such marks, names and applications as described in Schedule B), whether registered or

unregistered and wherever registered, all rights to sue for past, present or future infringement or unconsented use thereof, all rights arising therefrom and pertaining thereto and all reissues, extensions and renewals thereof;

(iii) the entire goodwill of or associated with the businesses now or hereafter conducted by Grantor connected with and symbolized by any of the aforementioned properties and assets;

(iv) all general intangibles and all intangible intellectual or other similar property of Grantor of any kind or nature, associated with or arising out of any of the aforementioned properties and assets and not otherwise described above; and

(v) all proceeds of any and all of the foregoing Collateral (including license royalties, rights to payment, accounts receivable and proceeds of infringement suits) and, to the extent not otherwise included, all payments under insurance (whether or not Secured Party is the loss payee thereof) or any indemnity, warranty or guaranty payable by reason of loss or damage to or otherwise with respect to the foregoing Collateral.

(b) Continuing Security Interest. Grantor agrees that this Agreement shall create a continuing security interest in the Collateral which shall remain in effect until terminated in accordance with Section 11.

SECTION 3 Supplement to Security Agreement. This Agreement has been granted in conjunction with the security interests granted to Secured Party under the Security Agreement. The rights and remedies of Secured Party with respect to the security interests granted herein are without prejudice to, and are in addition to those set forth in the Security Agreement, all terms and provisions of which are incorporated herein by reference.

SECTION 4 Representations and Warranties. Grantor represents and warrants to Secured Party and each Lender that:

(a) Patents. A true and correct list of all of the existing Collateral consisting of U.S. patents and patent applications and/or registrations owned by Grantor, in whole or in part, is set forth in Schedule A.

(b) Trademarks. A true and correct list of all of the existing Collateral consisting of U.S. trademarks, trademark registrations and/or applications owned by Grantor, in whole or in part, is set forth in Schedule B.

SECTION 5 Further Acts. On a continuing basis, Grantor shall make, execute, acknowledge and deliver, and file and record in the proper filing and recording places, all such instruments and documents, and take all such action as may be necessary or advisable or may be requested by Secured Party to carry out the intent and purposes of this Agreement, or for assuring, confirming or protecting the grant or perfection of the security interest granted or purported to be granted hereby, to ensure Grantor's compliance with this Agreement or to enable Secured Party to exercise and enforce its rights and remedies hereunder with respect to the Collateral, including any documents for filing with the PTO and/or any applicable state office. Secured Party may record this Agreement, an abstract thereof, or any other document describing Secured Party's interest in the Collateral with the PTO, at the expense of Grantor.

SECTION 6 Authorization to Supplement. If Grantor shall obtain rights to any new trademarks, any new patentable inventions or become entitled to the benefit of any patent application or patent for any reissue, division, or continuation, of any patent, the provisions of this Agreement shall automatically apply thereto. Grantor shall give prompt notice in writing to Secured Party with respect to any such new trademarks or patents, or renewal or extension of any trademark registration. Without limiting Grantor's obligations under this Section 6, Grantor authorizes Secured Party to modify this Agreement by amending Schedules A or B to include any such new patent or trademark rights. Notwithstanding the foregoing, no failure to so modify this Agreement or amend Schedules A or B shall in any way affect, invalidate or detract from Secured Party's continuing security interest in all Collateral, whether or not listed on Schedule A or B.

SECTION 7 Binding Effect. This Agreement shall be binding upon, inure to the benefit of and be enforceable by Grantor, Secured Party and their respective successors and assigns. Grantor may not assign, transfer, hypothecate or otherwise convey its rights, benefits, obligations or duties hereunder except as specifically permitted by the Security Agreement.

SECTION 8 Governing Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of Delaware, except as required by mandatory provisions of law and to the extent the validity or perfection of the security interests hereunder, or the remedies hereunder, in respect of any Collateral are governed by the law of a jurisdiction other than Delaware.

SECTION 9 Amendment. This Agreement is subject to modification only by a writing signed by the parties, except as provided herein. To the extent that any provision of this Agreement conflicts with any provision of the Security Agreement, the provision giving Secured Party greater rights or remedies shall govern, it being understood that the purpose of this Agreement is to add to, and not detract from, the rights granted to Secured Party under the Security Agreement.

SECTION 10 Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement.

SECTION 11 Termination. Upon payment and performance in full of all Obligations, the security interests created by this Agreement shall terminate and Secured Party shall promptly execute and deliver to Grantor such documents and instruments reasonably requested by Grantor as shall be necessary to evidence termination of all such security interests given by Grantor to Secured Party hereunder, including cancellation of this Agreement by written notice from Secured Party to the PTO.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, as of the date first above written.

GRANTOR

WHISPER COMMUNICATIONS, INC., a  
California corporation

By: \_\_\_\_\_  
Title: CFO

Address:

3200 Coronado Drive  
Santa Clara, CA 95054

Attn.: Michael Mullah  
Fax No.: (408) 490-3801

SECURED PARTY

SAFEGUARD DELAWARE, INC., a Delaware  
corporation

By: \_\_\_\_\_  
Title:

Address:

800 The Safeguard Building  
435 Devon Park Drive  
Wayne, PA 19087

Attn.: Tonya Zweier  
Fax: (610) 225-8525

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement, as of the date first above written.

GRANTOR

WHISPER COMMUNICATIONS, INC., a  
California corporation

By: \_\_\_\_\_

Title:

Address:

3200 Coronado Drive  
Santa Clara, CA 95054

Attn.: Michael Mullah  
Fax No.: (408) 490-3801

SECURED PARTY

SAFEGUARD DELAWARE, INC., a Delaware  
corporation

By: \_\_\_\_\_

Title: *Robert J. McFarland*

Address: *Vice President*

800 The Safeguard Building  
435 Devon Park Drive  
Wayne, PA 19087

Attn.: Tonya Zweier  
Fax: (610) 225-8525

SCHEDULE A  
to the Patent and Trademark Security Agreement

Whisper Communications, Inc.

Issued U.S. Patents of Grantor

<u>Patent No.</u>	<u>Issue Date</u>	<u>Title</u>
5,706,191	1/6/98	Appliance Interface Apparatus and Automated Residence Management System
5,734,966	3/31/98	Wireless Communication System for Adapting to Frequency Drift
5,909,640	6/1/99	Wireless Communication System for Adapting to Frequency Drift
5,914,672	6/2/99	System for Field Installation of a Remote Meter Interface
5,926,776	7/20/99	Smart Thermostat Having a Transceiver Interface
6,061,604	5/9/00	RF Base Repeater for Automated Residence Management System



Pending U.S. Patent Applications of Grantor

Whisper Communications, Inc.

<u>Serial No.</u>	<u>Filing Date</u>	<u>Title</u>
09/325,094	6/03/99	System for Field Installation of a Remote Meter Interface
WH260	5/30/00	Utility Meter Interface Shroud

SCHEDULE B  
to the Patent and Trademark Security Agreement

Whisper Communications, Inc.

U.S. Trademarks of Grantor

<u>Registration No.</u>	<u>Registration Date</u>	<u>Registered Owner</u>	<u>Mark</u>
2,256,380	06/29/99	Whisper Communications, Inc.	Whisper Communications
2,256,379	06/29/99	Whisper Communications, Inc.	TRUE2WAY

B-1.

Pending U.S. Trademark Applications of Grantor

Whisper Communications, Inc.

<u>Application No.</u>	<u>Filing Date</u>	<u>Applicant</u>	<u>Mark</u>
76045030	5/11/00	Whisper Communications, Inc.	Ti Portal
75801353	9/16/99	Whisper Communications, Inc.	Whisper

B-2.

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RECORDED: 06/28/2000

PATENT  
REEL: 010927 FRAME: 0785