

01-23-2001



RECORD SHEET
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U.S. DEPARTMENT OF COMMERCE
Patent and Trademark Office

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To the Honorable Commission.

101590618

Record the attached original documents or copy thereof.

1. Name of conveying party(ies):

Avista Capital, Inc.

10801

2. Name and address of receiving party(ies):

Name: Avista Laboratories, Inc.

Internal Address: _____

Street Address: 15913 E Euclid Ave

City: Spokane State: WA ZIP: 99216

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

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

3. Nature of conveyance:

☒ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☐ Other _____

Execution Date: December 28, 2000

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

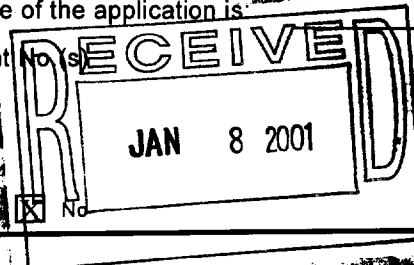
If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

6,030,718

Additional numbers attached? ☐ Yes ☒ No



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

Name: George G. Grigel

Internal Address: Wells, St. John, Roberts, Gregory & Matkin P.S.

Street Address: 601 West First Avenue

Suite 1300

City: Spokane

State: WA ZIP: 99201-3828

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: _____

(Attach duplicate copy of this page if paying by deposit account)

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.

George G. Grigel

Name of Person Signing

Signature

Date

4 Jan 2001

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

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

(Form PTO-1595-Recordation Form Cover Sheet - page 1 of 3)

PATENT
REEL: 011436 FRAME: 0669

**DECLARATION REGARDING INTELLECTUAL PROPERTY
AND ASSIGNMENT OF INTELLECTUAL PROPERTY**

THIS AGREEMENT, effective Dec 28, 2000, is entered into by and between Avista Capital, Inc., a Washington corporation ("Assignor") and Avista Laboratories, Inc., a Washington corporation ("Assignee").

RECITALS

Assignor may, but does not believe that it has any right, title and interest in and to certain domestic and foreign patents and patent applications, technology related to the contemplated business of Assignee, and all associated intellectual property rights.

Assignor and Assignee desire to make clear the ownership of these domestic and foreign patents and patent applications, patent rights, technology and associated intellectual property rights, and Assignor is willing to assign any ownership interest it may have to Assignee.

NOW, THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

1.1 "Assignee's Business" means the research and development, marketing, sale and distribution of fuel cell technology, including, but not limited to, proton exchange membrane fuel cells, and technology related to the functional elements of deriving hydrogen from hydrocarbon molecules or other sources, generating electricity, conditioning the electricity for use, and the control systems inside and outside the fuel cell to regulate and distribute the generation and flow of energy.

1.2 "Patents" means the domestic and foreign patents, patent applications, and patent rights, including all divisional, renewal, continuation and convention applications thereto related to Assignee's Business, including, but not limited to, those listed in Exhibit A.

1.3 "Technology" means all technology related to Assignee's Business, including, but not limited to, all ideas, concepts, techniques, know-how, inventions, discoveries, methods, processes, creations, works, documentation, drawings, designs, specifications, schematics, descriptions, development tools, test suites, diagnostic materials, samples, software (in source and object code form), prototypes and samples and other materials and information in any form (whether written, electronic, graphic or otherwise), whether or not subject to copyright, and all worldwide copyrights, mask-work rights, trade secrets, moral rights, author's rights, contract and licensing rights, and any other intellectual property rights therein as may exist now or hereafter come into existence, and all applications, renewals and extensions thereof, regardless of whether any of such rights arise under the laws of the United States or any other state, country or jurisdiction, but excluding all trademarks, servicemarks, logos and other source identifiers of Assignor.

2. Assignment. Assignor hereby irrevocably assigns to Assignee any and all right, title and interest it may have in and to the Patents and Technology. Assignor acknowledges and agrees that it does not retain any right, title and interest in the Patents and Technology and agrees not to challenge the validity of Assignee's ownership of the Patents and Technology. Assignor has not conveyed to others (except perhaps Avista Corporation) any rights in the Patents and Technology. Assignor authorizes Assignee to file patent applications in any or all countries or groups of countries with respect to the Technology in the name of Assignee, or as Assignee may deem advisable, under any relevant convention or treaty or otherwise.

3. Assistance. Assignor agrees to provide reasonable assistance to Assignee, at Assignee's expense, in obtaining, perfecting and enforcing all rights, title and interest in any and all countries, in and to the Technology and Patents. Upon request from Assignee, Assignor agrees to execute all

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documentation and generally do everything necessary and desirable to obtain and enforce all proper protection for the Technology and Patents, including, but not limited to, any application papers required for the filing of any divisional, continuation or renewal of Patents, resulting Letters Patent and assignment agreements. In the event that Assignee is unable for any reason whatsoever to secure Assignor's signature to any lawful and necessary document required to apply for or execute any patent, copyright or other applications with respect to the Technology and Patents, including, but not limited to, any improvements, renewals, extensions, continuations, divisions or continuations in part thereof, Assignor irrevocably designates and appoints Assignee, and its duly authorized officers and agents as its agent and attorney-in-fact to act for and on its behalf to execute and file any such applications and documents and to do all other lawfully permitted acts to further the prosecution and issuance of patents, copyrights or other rights thereon with the same legal force and effect as if executed by Assignor.

4. **Representation.** The parties have each been represented by counsel with respect to this Agreement. The terms of this Agreement will not be construed for or against either party with respect to the identity of the party who prepared all or any portion hereof.

5. **General Provisions.** This Agreement will be governed by and construed in accordance with the laws of the State of Washington, without regard to its conflict of laws principles. The exclusive jurisdiction and venue for any action related to or arising from this Agreement will lie exclusively in the state or federal courts in Spokane County, Washington. The prevailing party in any action arising under or related to this Agreement will be entitled to recover its reasonable costs and attorneys fees, including costs and attorneys fees incurred in connection with an appeal. If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. This Agreement may only be amended or modified by mutual agreement of authorized representatives of the parties in writing. This instrument contains the entire agreement between the parties with respect to the subject matter hereof. There are no promises or understandings that are not incorporated into this document. This Agreement cannot be modified, changed, discharged or terminated except by a written document signed by the parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

ASSIGNEE

Avista Laboratories, Inc.

By

Name:

Title:

ASSIGNOR

Avista Capital, Inc.

By

Name: Susan Y. Miner

Title: Assistant Corporate Secretary

EXHIBIT A

U.S. Patents

6,030,718

6,096,449

Pending U.S. Applications

09/293,248

09/291,815

09/470,321

09/577,407

09/544,781

09/322,666

Patent Cooperation Treaty Applications

PCT/US98/21769

PCT/US99/13808

PCT/US00/13911

Foreign Patent Applications

EPO 98953546-3 (Europe)

PI 9814617-3 (Brazil)

2,300,846 (Canada)

003305 (Mexico)

522640 (Japan)

10889 (Australia)

49565 (Australia)

Awaiting Serial No. (Europe)

Awaiting Serial No. (Japan)

Awaiting Serial No. (Mexico)

Awaiting Serial No. (Brazil)

Awaiting Serial No. (Canada)