

FORM PTO-1619A

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01-26-2001

U.S. Department of Commerce  
Patent and Trademark Office  
**PATENT**

101593881

**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☒ Security Agreement☐ License☐ Change of Name☐ Merger☒ Other Collateral Assignment**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 attachedExecution Date  
Month Day Year

Name (line 1) AbTech Industries, Inc.

09 19 1997

Name (line 2)

**Second Party**Execution Date  
Month Day Year

Name (line 1)

Name (line 2)

**Receiving Party**☐ Mark if additional names of receiving parties attached

Name (line 1) JCM Capital Corp.

Name (line 2)

Address (line 1) 535 Broad Hollow Road

Address (line 2) Suite A-10

Address (line 3) Melville

New York

11747

City

State/Country

Zip Code

☐ 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.)**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**

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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 Practices. 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

**PATENT**  
**REEL: 011449 FRAME: 0273**

**Correspondent Name and Address**

Area Code and Telephone Number **631-753-1000**

Name **JCM Capital Corp.**

Address (line 1) **c/o Joseph Berardino**

Address (line 2) **535 Broad Hollow Road**

Address (line 3) **Suite A-10**

Address (line 4) **Melville, New York 11747**

**Pages**

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

# **9**

**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)

**6,099,723**

**5,863,440**

**6,080,307**

**6,106,707**

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.

# **4**

**Fee Amount**

Fee Amount for Properties Listed (37 CFR 3.41): \$ **160.00**

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.*

JCM Capital Corp.

BY: **Joseph Berardino, President**

Name of Person Signing



Signature

**January 17, 2001**

Date

# PATENT COLLATERAL ASSIGNMENT AND SECURITY AGREEMENT

This PATENT COLLATERAL ASSIGNMENT and SECURITY AGREEMENT made this 19<sup>th</sup> day of September, 1997, between JCM Capital Corp., a New York corporation ("Secured Party") with offices located at 555 Broad Hollow Road, Suite 274, Melville, New York 11747 and AbTech Industries, LLC, an Arizona limited liability company with offices located at 4110 N. Scottsdale Road, Suite 235, Scottsdale, Arizona 85251 (which, together with its successors, assigns, subsidiaries, and affiliates, is hereinafter referred to as "Debtor").

NOW, THEREFORE, Debtor, for good and valuable consideration, agrees as follows:

1. **Definitions.** As used herein:

1.1. "Act" shall refer to the Securities Act of 1933, as amended (or any similar or successor statute in effect at the time).

1.2. "Agreements" shall mean the Note, the Advisory Agreement, and this Security Agreement.

1.3. "Collateral" shall mean (i) all patents, patents pending, applications for patents, intellectual property rights, and general intangibles now owned or hereafter acquired or created subsequent to the execution of this Security Agreement and prior to its termination (including, without limitation, the patents, patents pending, and applications for patents identified on Schedule 1 hereto), and all proceeds thereof (including license royalties and proceeds of infringement suits), the right of suit for past, present, and future infringements, all rights corresponding thereto throughout the world and all reissues, divisions, continuations, renewals, extensions, and continuations-in-part thereof, all as defined in the Uniform Commercial Code of the State of New York, or (ii) AbTech shall have the right, at any time so long as there shall be outstanding any Obligations due by AbTech to JCM, to substitute for and in place of the assignment of, and grant of a security interest in, the Collateral granted and conveyed to JCM by AbTech in the Patent Collateral Assignment and Security Agreement, an Irrevocable Standby Letter of Credit, in the form attached hereto, issued by a bank licensed to transact business in the State of New York that is acceptable to JCM, having a face amount of not less than \$350,000. The initial term of such Letter of Credit shall not expire sooner than the maturity of the Note.

1.4. "Advisory Agreement" shall refer to the Advisory Agreement between Borrower and Lender of even date herewith.

1.5. "Note" shall refer to the Senior Secured Convertible Promissory Note.

1.6. "Obligations" shall mean all monies due and owing by the Debtor under the Agreements and all covenants and warranties and representations by the Debtor under the Agreements.

1.7. "Security Agreement" shall refer to this Patent Collateral Assignment and Security Agreement.

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2. **Grant of Collateral Assignment and Security Interest.** To secure the due and punctual payment and performance of all Obligations, as hereinafter defined, of the Debtor, in accordance with each and any one of the Agreements, as hereinafter defined, Debtor hereby grants and conveys to the Secured Party a collateral assignment of, and a first priority security interest in, the Collateral, which the Debtor represents will be used primarily in a business use.

3. **Warranties, Covenants, and Agreements of the Debtor.**

Debtor warrants, covenants, and agrees as follows:

3.1. To pay and perform all of the Obligations on its part to be performed and secured by this Security Agreement according to their terms.

3.2. On demand of the Secured Party to do the following; furnish further assurance of title, execute any written agreement or do any other reasonable acts necessary to effectuate the purposes and provisions of this Security Agreement, execute any instrument or statement required by law or otherwise in order to perfect, continue or terminate the security interest of the Secured Party in the Collateral, and pay all costs of filing in connection therewith. Debtor agrees to perform any act reasonably requested by the Secured Party to create, validate or otherwise protect the security interest of the Secured Party or to enable the Secured Party to exercise and enforce the rights of the Secured Party hereunder or with respect to such security interest.

3.3. To keep the Collateral free and clear of all liens, charges, encumbrances, taxes, and assessments.

4. **General Provisions.**

4.1. Agreements and documents executed in connection with this Security Agreement are separate instruments and may be assigned by the Secured Party in accordance with the terms of the Agreements without releasing Debtor or the Collateral.

4.2. Waiver of or acquiescence in any Default by the Debtor, or failure of the Secured Party to insist upon strict performance by the Debtor of any warranties, covenants, or agreements in this Security Agreement, shall not constitute a continuing waiver or a waiver of any subsequent or other default or failure.

4.3. Any notice, request, demand, instruction, or other communication required or permitted hereunder shall be made by certified mail, return receipt requested, hand delivery, or via any overnight delivery service. Notice shall be deemed given on the actual date of delivery.

4.4. The Uniform Commercial Code of the State of New York shall govern the rights, duties and remedies of the parties and any provisions herein declared invalid under any law shall not invalidate any other provision of this Security Agreement.

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5. **Additional Patents.**

5.1. Debtor agrees that, until all of the Obligations shall have been satisfied in full, it will not enter into any agreement (for example, a license agreement) which is inconsistent with Debtor's obligations under this Agreement, without Secured Party's prior written consent, such consent not to be unreasonably withheld.

5.2. If, before the Obligations shall have been satisfied in full, Debtor shall obtain rights to any new patentable inventions, or become entitled to the benefit of any patent application or patent for any reissue, division, continuation, renewal, extension, or continuation-in-part of any patent or any improvement on any patent, the provisions of paragraph 2 shall automatically apply thereto and Debtor shall give to Secured Party prompt notice thereof in writing hereof.

5.3. Debtor authorizes Secured Party to modify this Security Agreement by amending Schedule 1 to include all future patents and patent applications.

5.4. Debtor shall have the duty, through counsel reasonably acceptable to Secured Party, to prosecute diligently any patent applications of the patents pending as of the date of this Security Agreement or thereafter until all of the Obligations shall have been paid in full, to make application on unpatented but patentable inventions, and to preserve and maintain all rights in patent applications and patents which form a part of the Collateral, including without limitation the payment of all maintenance fees. Any expenses incurred in connection with such an application shall be borne by Debtor. The Debtor shall not abandon any right to file a patent application, or any pending patent application or patent without the consent of Secured Party, which consent shall not be unreasonably withheld. Debtor shall have the right, with the consent of Secured Party, which shall not be unreasonably withheld, to bring suit in its own name, and join Secured Party, if necessary, as a party to such suit so long as Secured Party is satisfied that such joinder will not subject it to any risk of liability, to enforce the patents and any licenses thereunder. Debtor shall promptly, upon demand, reimburse, and indemnify Secured Party for all damages, costs and expenses, including reasonable legal fees, incurred by Secured Party pursuant to this Section 5.4.

6. **License to Inventions.** Unless and until Secured Party shall have alleged the occurrence of a Default, Secured Party hereby grants to Debtor the exclusive, nontransferable right and license under the Collateral to make, have made for it, use and sell the inventions disclosed and claimed in the Collateral for Debtor's own benefit and account and for none other. Debtor agrees not to sell or assign its interest in, or grant any sublicense under, the license granted to Debtor in this paragraph 6, without the prior written consent of Secured Party, such consent not to be unreasonably withheld.

7. **Default.** The following shall constitute a Default by Debtor:

7.1. Any "Event of Default" under, and as defined in, the Note.

7.2. Any breach of a representation, covenant, or warranty with respect to any Obligation contained in or arising out of the Advisory Agreement or this Security Agreement.

7.3. Failure by Debtor to comply with or perform any provision of this

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Security Agreement after notice and fifteen (15) days opportunity to cure.

7.4. False or misleading representations, covenants, or warranties made or given by Debtor in connection with this Security Agreement or the Advisory Agreement after notice and fifteen (15) days opportunity to cure.

7.5. Commencement of any insolvency, bankruptcy, assignment for the benefit of creditors, composition, receivership, liquidation or dissolution proceeding by or against the Debtor.

## 8. Remedies.


8.1. Upon any Default of the Debtor (as defined in Section 7) and at the option of the Secured Party, the Obligations secured by this Security Agreement shall immediately become due and payable in full without notice or demand and the Secured Party shall have all the rights, remedies and privileges with respect to repossession, retention and sale of the Collateral and disposition of the proceeds as are accorded to a Secured Party by the applicable sections of the Uniform Commercial Code of the State of New York respecting "Default," in effect as of the date of this Security Agreement.

8.2. Without limiting the generality of the foregoing, Secured Party may immediately, without demand of performance and without other notice (except as set forth next below) or demand whatsoever to Debtor, all of which are hereby expressly waived, and without advertisement, sell at public or private sale or otherwise realize upon, the whole or from time to time any part of the Collateral, or any interest which the Debtor may have therein, and after deducting from the proceeds of sale or other disposition of the Collateral all expenses (including all reasonable expenses for brokers' fees, auctioneer fees and legal services), shall apply the residue of such proceeds toward the payment of the Obligations. Notice of any sale or other disposition of the Collateral shall be given to Debtor at least fifteen (15) days before the time of any intended public or private sale or other disposition of the Collateral is to be made, which Debtor hereby agrees shall be reasonable notice of such sale or other disposition. At any such sale or other disposition, Secured Party may, to the extent permissible under applicable law, purchase the whole or any part of the Collateral sold, free from any right of redemption on the part of Debtor, which right is hereby waived and released.

8.3. If Secured Party shall have alleged the occurrence of any Default, Debtor hereby authorizes and empowers Secured Party to make, constitute, and appoint any officer or agent of Secured Party, as Secured Party may select in its exclusive discretion, as Debtor's true and lawful attorney-in-fact, with the power to endorse Debtor's name on all applications, documents, papers, and instruments necessary for Secured Party to use the Collateral, or to grant or issue any exclusive or nonexclusive license under the Collateral to any third person, or necessary for Secured Party to assign, pledge, convey, or otherwise transfer title in or dispose of the Collateral to any third person. Debtor hereby ratifies all that such attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney shall be irrevocable for the life of this Security Agreement.

8.4. The Debtor shall remain liable for any deficiency resulting from a sale of the Collateral and shall pay any such deficiency forthwith on demand.

8.5. Expenses of Filings. Any and all fees, costs, and expenses of

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whatever kind and nature incurred by Secured Party in connection with the filing or recording of any documents (including all taxes in connection therewith) in public offices, the payment or discharge of any taxes, counsel fees, maintenance fees, encumbrances, or otherwise protecting, maintaining, or preserving the Collateral or in defending or prosecuting any actions or proceedings arising out of or related to the Collateral shall be borne and paid by Debtor on demand by Secured party and, until so paid, shall be added to the principal amount of the Obligations and shall bear interest at the default rate described in the Note.

9. **Assignment.** The Secured Party may assign this Security Agreement. If assigned, the assignee shall be entitled, upon notifying the Debtor, to performance of all Debtor's Obligations and agreements hereunder and to all of the rights and remedies of the Secured Party hereunder. Debtor will assert no claims or defenses Debtor may have against the Secured Party against the assignee.

10. **Miscellaneous Provisions.**

10.1. The Secured Party is authorized to file or record any Financing Statements or other papers without the signature of the Debtor permitted by New York law. The Secured Party may file a photographic or other reproduction of this Security Agreement in lieu of a Financing Statement in any filing office where it is permissible to do so.

10.2. All options, powers, rights, and remedies granted to the Secured Party hereunder or under the Note or the Advisory Agreement shall be cumulative and shall be in addition to any other options, powers or rights which the Secured Party may now or hereafter have as a secured party under the Uniform Commercial Code of the State of New York or under any other applicable law or otherwise.

10.3. Neither this Security Agreement nor any provision thereof may be modified, changed, waived, discharged or terminated orally, but only by an instrument in writing signed by the party against whom enforcement of the modification, change, waiver, discharge or termination is sought.

10.4. It is the intention of the parties that the security interest created and provided for herein shall attach to after-acquired as well as existing Collateral, to the maximum extent permitted by the Uniform Commercial Code of the State of New York.


10.5. The terms, warranties and agreements herein contained shall bind and inure to the benefit of the respective parties hereto, and their respective legal representatives, successors and assigns.

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11. **Governing Law and Venue.** This Agreement, when executed by Secured Party, shall be deemed to have been made in the State of New York. The terms and provisions of this Agreement shall be construed and enforced under the procedural and substantive laws of the State of New York, without regard to principles of conflicts of law. Any question or dispute arising out of this Agreement shall be adjudicated in either the Supreme Court of the State of New York, Suffolk County or, there is a jurisdictional basis, in the United States District Court for the Eastern District of New York. Debtor hereby consents to such courts' personal jurisdiction over it. Debtor expressly waives the right to interpose a counterclaim and the right to a jury trial, in any action, suit, or proceeding arising under this Agreement.

IN WITNESS WHEREOF, the undersigned have executed this Security Agreement as of the date first written above.

ABTECH INDUSTRIES, L.L.C.

By:   
Glenn R. Rink  
President

JCM CAPITAL CORP.

By:   
Joseph Berardino  
President



**SCHEDULE 1 TO SECURITY AGREEMENT**

Title: Systems for Ameliorating Oil Spills in Marine and Inland Waters

Serial No.: 08/653,228

Filed: May 24, 1996

Inventors: Glenn R. Rink, Robert L. Rosania, David R. Smith, Thomas C. Johnson, Jan R. Hegeman, Peter A. Allen

Title: Systems for Ameliorating Aqueous Hydrocarbon Spills

Serial No.: 60/034,677

Filed: January 10, 1997

Inventors: Glenn R. Rink, James F. Morris, Stephen C. Stelpstra, Robert L. Rosania, Jan R. Hegeman, Peter A. Allen

Title: Catchbasin Systems For Filtering Hydrocarbon Spills

Serial No.: Not Issued Yet

Filed: June 6, 1997

Inventors: James F. Morris

On May 23, 1997 a Patent Cooperation Treaty was filed.

Title: Systems for Ameliorating Oil Spills in Marine and Inland Waters

Filed: May 23, 1997

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