

08-19-2002

Form PTO-1595
(Rev. 03/01)

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

OMB No. 0651-0027 (exp. 5/31/2002)

Tab settings

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

1. Name of conveying party(ies):

Fortel, Inc.

8-13-02

2. Name and address of receiving party(ies)

Name: **Deephaven Private Placement
Trading Ltd.**

Internal Address: **c/o Deephaven Capital
Management LLC**

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

3. Nature of conveyance:

- Assignment
- Security Agreement
- Other
- Merger
- Change of Name

Street Address: **130 Cheshire Lane**

City: **Minnetonka** State: **MN** Zip: **55305**

Execution Date: **08/07/2002**

Additional name(s) & address(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) _____

B. Patent No.(s) **5,452,440**

Additional numbers attached? Yes No

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

Name: **Bryan Cave LLP**

Internal Address: _____

Street Address: **1290 Avenue of the**

Americas

City: **New York** State: **NY** Zip: **10104**

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: _____

DO NOT USE THIS SPACE

9. Signature.

Todd Braverman

Name of Person Signing

Todd Braverman
Signature

08/13/2002
Date

Total number of pages including cover sheet, attachments, and documents:

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

08/16/2002 AAHFFD1 00000115 5452440

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40.00 LP

PATENT
REEL: 013184 FRAME: 0743

Form PTO-1595
(Rev. 03/01)

RECORDATION FORM COVER SHEET
PATENTS ONLY

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

OMB No. 0651-0027 (exp. 5/31/2002)

Tab settings ⇌ ⇌ ⇌ ▼ ▼ ▼ ▼ ▼ ▼ ▼

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

1. Name of conveying party(ies):

2. Name and address of receiving party(ies)

Name: Harp Investors LLC

Internal Address: c/o WEC Asset

Management LLC

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

3. Nature of conveyance:

- Assignment Merger
- Security Agreement Change of Name
- Other _____

Street Address: 110 Colabaugh Pond Road

Croton-on-Hudson

City: _____ State: NY Zip: 10520

Execution Date: _____

Additional name(s) & address(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) _____

B. Patent No.(s) _____

Additional numbers attached? Yes No

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

6. Total number of applications and patents involved:

Name: _____

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

Internal Address: _____

Enclosed

Authorized to be charged to deposit account

8. Deposit account number:

Street Address: _____

City: _____ State: _____ Zip: _____

DO NOT USE THIS SPACE

9. Signature.

Name of Person Signing

Signature

Date

Total number of pages including cover sheet, attachments, and documents:

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

5,452,440

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

APPOINTMENT OF DOMESTIC REPRESENTATIVE

Bryan Cave LLP, whose postal address is 1290 Avenue of the Americas, New York, NY 10104, is hereby designated Deephaven Private Placement Trading Ltd.'s representative upon whom notice of process in proceedings affecting the trademarks and patents listed on the attached Recordation Cover Sheets may be served.

August 13, 2002

Date



Name: Bruce Lieberman

Title: Director Private Placements

INTELLECTUAL PROPERTY SECURITY AGREEMENT

INTELLECTUAL PROPERTY SECURITY AGREEMENT, dated as of August 7, 2002, among FORTEL, Inc., a California corporation (the "Company"), Deephaven Private Placement Trading Ltd. ("Deephaven") and Harp Investors LLC ("Harp"). Deephaven and Harp are each sometimes referred to in this Agreement as a "Secured Party."

W I T N E S S E T H:

WHEREAS, on July 18, 2000 the Company and each Secured Party entered into a Securities Purchase Agreement, as amended on November 6, 2000 (the "Purchase Agreement");

WHEREAS, the Company is in default of certain obligations under the Transaction Documents (as defined in the Purchase Agreement) and owes accrued liquidated damages thereunder to Deephaven in the amount of \$2,503,060 and to Harp in the amount of \$1,144,000 (collectively, with interest thereon that accrues at the rate of 15% per annum until all such amounts are paid in full, the "Liquidated Damages"), and has requested that each Secured Party forbear, for a period of time, from (x) calling such defaults or commencing legal proceedings with respect thereto and (y) commencing legal proceedings to collect any accrued or accruing liquidated damages under the Transaction Documents;

WHEREAS, the Company and each Secured Party have entered into that certain letter agreement, dated the date hereof (the "Letter Agreement"), which memorializes the terms and conditions relating to such forbearance; and

WHEREAS, in order to induce each Secured Party to enter into the Letter Agreement, the Company has agreed to execute and deliver to each Secured Party this Agreement for the benefit of each Secured Party and to grant to each of them a security interest in certain intangible property of the Company that is senior to all other now existing and hereafter created security interests other than the PBF Security Interest and MGS Security Interest (as hereinafter defined), to secure the prompt payment, satisfaction and discharge in full of all of the Liquidated Damages owed by the Company.

NOW, THEREFORE, in consideration of the agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Certain Definitions. As used in this Agreement, the following terms shall have the meanings set forth in this Section 1. Terms used but not otherwise defined in this Agreement that are defined in Article 9 of the UCC (such as "general intangibles" and "proceeds") shall have the respective meanings given such terms in Article 9 of the UCC.

(a) "Bankruptcy Event" means any of the following events: (a) the Company commences a case or other proceeding under any bankruptcy, reorganization, arrangement, adjustment of debt, relief of debtors, dissolution, insolvency or liquidation or similar law of any jurisdiction relating to the Company; (b) there is commenced against the Company any such case or proceeding that is not dismissed within 60 days after commencement; (c) the Company is adjudicated insolvent or bankrupt or any order of relief or other order approving any such case or proceeding is entered; (d) the Company suffers any appointment of any custodian or the like for it or any substantial part of its property that is not discharged or stayed within 60 days; (e) the Company makes a general assignment for the benefit of creditors; (f) the Company fails to pay, or states that it is unable to pay or is unable to pay, its debts generally as they become due; (g) the Company calls a meeting of its creditors with a view to arranging a composition, adjustment or restructuring of its debts; or (h) the Company, by any act or failure to act, expressly indicates its consent to, approval of or acquiescence in any of the foregoing or takes any corporate or other action for the purpose of effecting any of the foregoing.

(b) "Collateral" means all of the Company's right, title and interest in and to all of Trademarks, Patents, Copyrights, domain names and other general intangible property of the Company, all trade secrets, intellectual property rights in computer software and computer software products, design rights which may be available to the Company, rights to proceeds arising from any and all claims for damages by way of past, present and future infringement of any Collateral with the right but not the obligation to sue on behalf of and collect such damages for said use or infringement, licenses to use any of the Copyrights, domain names, Patents or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights, all of which are now or hereafter existing, created, acquired or held. The term "Collateral" shall include all of the foregoing items, whether presently owned or existing or hereafter acquired or coming into existence, all additions and accessions thereto, all substitutions and replacements thereof, and all proceeds, products and accounts thereof, including without limitation all proceeds from the licensing or sale or other transfer of Collateral and of insurance covering the same and of any tort claims in connection therewith.

(c) "Copyrights" means (i) any and all copyrights in computer software owned by the Company, including any revisions and derivative works, whether registered or not and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including, without limitation, those set forth on Exhibit A attached hereto and (ii) copyright applications, copyright registrations and like protections in any work of authorship and any derivative work thereof that are created by the Company, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held, including, without limitation, those set forth on Exhibit A attached hereto.

(d) "MGS Security Interest" means the security interest granted to MGS, Inc. ("MGS") in certain licensing fees owed to the Company by Unisys Corporation pursuant to that

certain License Agreement between Unisys Corporation and the Company (f/k/a Datametrics Systems Corporation) dated as of November 11, 2000, to secure certain royalty payments due to MGS by the Company under the Software Marketing and Support Agreement between the Company and MGS dated as of June 1, 2000 and evidenced by a Promissory Note, dated October 10, 2001 between the Company and MGS, in an original principal amount of \$710,388.36, provided, that such security interest does not cover any Copyrights, Trademarks or Patents.

(e) "Obligations" means all of the Company's obligations under this Agreement and with respect to the payment of Liquidated Damages, in each case, whether now or hereafter existing, voluntary or involuntary, direct or indirect, absolute or contingent, liquidated or unliquidated, whether or not jointly owed with others, and whether or not from time to time decreased or extinguished and later increased, created or incurred, and all or any portion of such obligations or liabilities that are paid, to the extent all or any part of such payment is avoided or recovered directly or indirectly from a Secured Party as a preference, fraudulent transfer or otherwise as such obligations may be amended, supplemented, converted, extended or modified from time to time.

(f) "Patents" means all of the Company's patents, patent applications, letters patent and like protections of the United States or any other country, including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same, all of which are now or hereafter existing, created, acquired or held, and including, without limitation, those set forth on Exhibit B attached hereto.

(g) "PBF Security Interest" means the security interest granted to Pacific Business Funding ("PBF") on account of the Factoring Agreement, dated as of October 18, 1999, between the Company and PBF ("Factoring Agreement"), to secure borrowings under the Factoring Agreement in accordance with the "Borrowing Base" determined in accordance with the formula set forth therein (but not as to any such formula to the extent such formula would result in a greater borrowing base due to deviations from the definition of "Borrowing Base" set forth in the Factoring Agreement on October 18, 1999).

(h) "Trademarks" means any trademark, service mark right, whether or not registered, applications to register and registrations of the same and like protections, and the entire goodwill of the business of the Company connected with or symbolized by such trademarks, all of which are now or hereafter existing, created, acquired or held, including, without limitation, those set forth on Exhibit C attached hereto.

(i) "Two Thirds-in-Interest" means one or more of the secured party signatories hereto holding in excess of 66.66% of the Shares and Underlying Shares (each as defined in the Purchase Agreement), determined on a cumulative basis.

(j) "UCC" means the Uniform Commercial Code and or any other applicable law of any jurisdiction (including, without limitation, the state of California) of the jurisdiction in which the Company is incorporated or organized.

2. Grant of Security Interest. As an inducement for each Secured Party to enter into the Letter Agreement and to secure the complete and timely payment, satisfaction and discharge

in full, as the case may be, of all of the Obligations, the Company hereby, unconditionally and irrevocably, pledges, grants and hypothecates to each Secured Party, a continuing priority security interest that is senior to all now existing or hereafter created security interests other than the PBF Security Interest and the MGS Security Interest, and a lien upon and a right of set-off against all of the Company's right, title and interest of whatsoever kind and nature in and to the Collateral that is senior to all now existing or hereafter created liens other than the lien evidenced by the PBF Security Interest and the MGS Security Interest (the "Security Interest").

3. Representations, Warranties, Covenants and Agreements of the Company. The Company represents and warrants to, and covenants and agrees with, each Secured Party as follows:

(a) The Company has the requisite corporate power and authority to enter into this Agreement and otherwise to carry out its obligations thereunder. The execution, delivery and performance by the Company of this Agreement and the filings contemplated therein have been duly authorized by all necessary action on the part of the Company and no further action is required by the Company.

(b) The Company is the sole owner of the Collateral (except for non-exclusive licenses granted by the Company in the ordinary course of business), free and clear of any liens, security interests, encumbrances, rights or claims (other than, in each case, the PBF Security Interest and the MGS Security Interest), and is fully authorized to grant the Security Interest in and to pledge the Collateral. Except in connection with the PBF Security Interest and the MGS Security Interest, there is not on file in any governmental or regulatory authority, agency or recording office an effective financing statement, security agreement, license or transfer or any notice of any of the foregoing (other than those that have been filed in favor of a Secured Party pursuant to this Agreement) covering or affecting any of the Collateral. So long as this Agreement shall be in effect, the Company shall not execute and shall not knowingly permit to be on file in any such office or agency any such financing statement or other document or instrument (except to the extent filed or recorded in favor of a Secured Party pursuant to the terms of this Agreement).

(c) Exhibit A sets forth a true and complete list of all registered Copyrights and all of the Company's current unregistered computer software and software in development in existence as of the date of this Agreement. The Company has ceased to distribute certain software programs once distributed by the Company or its predecessors. The Copyrights in such software programs are not listed in Exhibit A except as they may have been registered previously or may be part of the existing products on Exhibit A. Exhibit B sets forth a true and complete list of all Patents that have been filed as of the date of this Agreement. Exhibit C sets forth a true and complete list of all Trademarks filed as of the date of this Agreement. The Company shall, within ten (10) days of obtaining knowledge thereof, advise each Secured Party in writing of any change in the composition of the Collateral, including, without limitation, any subsequent ownership rights of the Company in or to any Copyright, Patent or Trademark, provided, that the Company shall not be obligated to advise a Secured Party with respect to regular updates and version changes which may occur from time to time with respect to the Sightline Expert Advisor/Vision software.

(d) Each of the Patents, Trademarks and Copyrights is valid and enforceable, and no part of the Collateral has been judged invalid or unenforceable. No written claim has been received that any of the Patents, Trademarks or Copyrights or the Company's use of any Collateral violates the rights of any third party. There has been no adverse decision to the Company's claim of ownership rights in or exclusive rights to use the Collateral in any jurisdiction or to the Company's right to keep and maintain such Collateral in full force and effect, and there is no proceeding involving said rights pending or, to the best knowledge of the Company, threatened before any court, judicial body, administrative or regulatory agency, arbitrator or other governmental authority.

(e) The Company shall at all times maintain its books of account and records relating to the Collateral at its principal place of business and may not relocate such books of account and records unless it delivers to each Secured Party at least 30 days prior to such relocation written notice of such relocation and the new location thereof (which must be within the United States). The principal place of business of the Company is located at the address set forth in the introduction to this Agreement and will not be moved without notice to each Secured Party.

(f) This Agreement creates in favor of each Secured Party a valid security interest in the Collateral, including the Collateral listed on the Exhibits hereto, securing the payment and satisfaction of the Obligations, and, upon making the filings described in the immediately following sentence, a perfected security interest in such Collateral that is senior to all existing and hereafter created security interests other than the PBF Security Interest and the MGS Security Interest. Except for (x) the filing of this Agreement with the United States Patent and Trademark Office with respect to the Patents and Trademarks and the filing of this Agreement with the United States Copyrights Office with respect to the Copyrights, and (y) the filing of financing statements on Form UCC-1 under the UCC with the California Secretary of State no authorization or approval of or filing with or notice to any governmental authority or regulatory body is required either: (i) for the grant by the Company of, or the effectiveness of, the Security Interest granted hereby or for the execution, delivery and performance of this Agreement by the Company or (ii) for the perfection of or exercise by a Secured Party of its rights and remedies hereunder. The Company acknowledges and agrees that a copy of this Agreement (or instruments executed and delivered pursuant hereto) will be filed and recorded with each of the United States Patent and Trademark Office and the United States Copyrights Office with respect to the Patents, Trademarks and Copyrights that are now or hereafter in existence.

(g) On the date of execution of this Agreement, the Company authorizes each Secured Party: (i) to file one or more financing statements on Form UCC-1 under the UCC with respect to the Security Interest for filing with the California Secretary of State and (ii) to record one or more executed recordation sheets relating to the filing and recording of this Agreement with each of the United States Patent and Trademark Office and the United States Copyrights Office with respect to the Patents, Trademarks and Copyrights that are now in existence.

(h) The execution, delivery and performance of this Agreement does not conflict with or cause a breach or default, or an event that with or without the passage of time or notice, shall constitute a breach or default, under any agreement to which the Company is a party

or by the Company is bound. No consent that has not been obtained prior to the execution and delivery of this Agreement (including, without limitation, from stock holders or creditors of the Company) is required for the Company to enter into and perform its obligations hereunder.

(i) The Company shall at all times maintain the Liens and Security Interest provided for hereunder as valid and perfected liens and security interests in the Collateral in favor of each Secured Party and insure that such liens and Security Interests are and remain senior to all now existing and hereafter created security interests and liens other than the PBF Security Interest and the MGS Security Interest. The Company hereby agrees to defend the same against any and all persons. The Company shall safeguard and protect all Collateral for the account of each Secured Party. At the request of a Secured Party, the Company will authorize such Secured Party at any time or from time to time to file one or more financing statements pursuant to the UCC in form reasonably satisfactory to such Secured Party and will pay the cost of filing the same in all public offices wherever filing is, or is deemed by such Secured Party to be, necessary or desirable to effect the rights and obligations provided for herein. Without limiting the generality of the foregoing, the Company shall pay all fees, taxes and other amounts necessary to maintain the Collateral and the Security Interest hereunder, and the Company shall obtain and furnish to each Secured Party from time to time, upon demand, such releases and/or subordinations of claims and liens which may be required to maintain the priority of the Security Interest hereunder.

(j) The Company will not allow any Collateral to be abandoned, forfeited or dedicated to the public without the prior written consent of each Secured Party, which consent shall not be unreasonably withheld. Except in accordance with the letter agreement, dated as of the date of this Agreement, among the Company, PBF and each Secured Party, the Company will not transfer, pledge, hypothecate, encumber, license (except for non-exclusive licenses granted by the Company in the ordinary course of business), sell or otherwise dispose of any of the Collateral without the prior written consent of each Secured Party, which consent shall not be unreasonably withheld. The Company shall also continue to file for protection of Patents and Trademarks and register Copyrights in accordance with its reasonable business judgment.

(k) The Company shall, within ten (10) days of obtaining knowledge thereof, advise each Secured Party, in sufficient detail, of any substantial change in the Collateral, and of the occurrence of any event which would have a material adverse effect on the value of the Collateral or on a Secured Party's security interest therein, provided, that the Company shall not be obligated to advise a Secured Party with respect to regular updates and version changes which may occur from time to time with respect to the Sightline Expert Advisor/Vision software.

(l) The Company shall permit each Secured Party and its representatives and agents to inspect the Collateral at any time, and to make copies of records pertaining to the Collateral as may be requested by such Secured Party from time to time, upon prior written notice, during normal business hours and no more frequently than on a quarterly basis, unless an Event of Default (as defined in Section 4) has occurred and is continuing.

(m) The Company will take all steps necessary in accordance with its reasonable business judgment to diligently pursue and seek to preserve, enforce and collect any rights, claims, causes of action and accounts receivable in respect of the Collateral.

(n) The Company shall promptly notify each Secured Party in sufficient detail upon becoming aware of any attachment, garnishment, execution or other legal process levied (and not bonded, stayed or dismissed) against any Collateral and of any other information received by the Company that could reasonably be expected to materially affect the value of the Collateral, the Security Interest or the rights and remedies of each Secured Party hereunder.

(o) The Company shall not grant to any person or entity any rights or interest in or to any of the Collateral that are senior to, or pari passu with, the Secured Parties.

(p) All information heretofore, herein or hereafter supplied to each Secured Party by or on behalf of the Company with respect to the Collateral is accurate and complete in all material respects as of the date furnished.

4. Defaults. Any of the following events shall be an "Event of Default":

(a) The failure by the Company to timely observe or perform any of its obligations under the Letter Agreement, the Transaction Documents or this Agreement.

(b) Any representation or warranty of the Company in this Agreement or the Letter Agreement, shall prove to have been incorrect in any material respect when made.

(c) Any breach by the Company or PBF of the letter agreement, dated as of the date of this Agreement, among PBF, the Company and each Secured Party.

(d) The occurrence of a Bankruptcy Event.

5. Duty To Hold In Trust. Upon the occurrence and at any time during the continuance of any Event of Default, the Company shall, upon receipt by it of any revenue, income or other sums subject to the Security Interest or of any check, draft, note, trade acceptance or other instrument evidencing an obligation to pay any such sum, hold the same in trust for each Secured Party and shall forthwith endorse and transfer any such sums or instruments, or both, to each Secured Party for application to the satisfaction of the Obligations.

6. Rights and Remedies Upon Default. Upon the occurrence and at any time during the continuance of any Event of Default, each Secured Party shall have the right to exercise all of the remedies conferred hereunder and under the Transaction Documents, and each Secured Party shall have all the rights and remedies of a secured party under the UCC. Without limitation, each Secured Party shall have the following rights and powers:

(a) To take possession of all tangible manifestations or embodiments of the Collateral and, for that purpose, enter, with the aid and assistance of any person, any premises where the Collateral, or any part thereof, is or may be placed and remove the same, and the Company shall assemble the Collateral and make it available to each Secured Party at places which such Secured Party shall reasonably select, whether at the Company's premises or elsewhere.

(b) To operate the business of the Company using the Collateral and shall have the right to assign, sell, or otherwise dispose of and deliver all or any part of the Collateral,

at public or private sale or otherwise, either with or without special conditions or stipulations, for cash or on credit or for future delivery, in such parcel or parcels and at such time or times and at such place or places, and upon such terms and conditions as the Secured Party may deem commercially reasonable, all without (except as shall be required by applicable statute and cannot be waived) advertisement or demand upon or notice to the Company or right of redemption of the Company, which are hereby expressly waived. Upon each such sale, assignment or other transfer of Collateral, the Secured Party may, unless prohibited by applicable law which cannot be waived, purchase all or any part of the Collateral being sold, free from and discharged of all trusts, claims, right of redemption and equities of the Company, which are hereby waived and released, provided, that if a third party shall have irrevocably committed, subject to the priority purchase rights of the Secured Party, to purchase all or a portion of the Collateral then the Secured Party shall not be entitled to purchase such Collateral for a price which is less than the price offered by such third party.

(c) To license or, to the same extent the Company is permitted by law and contract to do so, sublicense, whether or an exclusive or non-exclusive basis, any of the Collateral throughout the world for such term, on such conditions and in such manner as a Secured Party shall, in its sole discretion, determine.

(d) (Without assuming any obligations or liabilities thereunder), at any time, to enforce (and shall have the exclusive right to enforce) against licensee or sublicensee all rights and remedies of the Company in, to and under any license agreement with respect to such Collateral, and take or refrain from taking any action thereunder.

(e) To, in order to implement the assignment, license, sale or other disposition of any of the Collateral pursuant to this Section, pursuant to the authority provided for in Section 11, execute and deliver on behalf of the Company one or more instruments of assignment of the Collateral in form suitable for filing, recording or registration in any jurisdictions as a Secured Party may determine advisable.

7. Applications of Proceeds; Expenses.

(a) The proceeds of any such sale, lease, license or other disposition of the Collateral hereunder shall be applied in the following order of priority:

first, to the expenses of retaking, holding, storing, processing and preparing for sale, selling, and the like (including, without limitation, any taxes, fees and other costs incurred in connection therewith) of the Collateral;

second, to the reasonable attorneys' fees and expenses incurred by each Secured Party in enforcing its rights hereunder and in connection with collecting, storing and disposing of the Collateral;

third, the payment to PBF and MGS of the amounts then secured by the PBF Security Interest and the MGS Security Interest, pari passu and pro-rata; and

fourth, to satisfaction of the Obligations, and to the payment of any other amounts required by applicable law, after which such Secured Party shall pay to the Company any surplus proceeds.

If, upon the sale, license or other disposition of the Collateral, the proceeds thereof are insufficient to pay all amounts to which a Secured Party is legally entitled, the Company will be liable for the deficiency, together with interest thereon, at the rate of 15% per annum or the lesser amount permitted by applicable law, and the reasonable fees of any attorneys employed by such Secured Party to collect such deficiency. To the extent permitted by applicable law, the Company waives all claims, damages and demands against each Secured Party arising out of the repossession, removal, retention or sale of the Collateral, unless, with respect to a Secured Party, due to the gross negligence or willful misconduct of such Secured Party.

(b) The Company agrees to pay all out-of-pocket fees, costs and expenses incurred in connection with any filing required hereunder, including, without limitation, any financing statements, continuation statements, partial releases and/or termination statements related thereto or any expenses of any searches reasonably required by a Secured Party. The Company shall also pay all other actual, reasonable and necessary claims and charges which in the reasonable opinion of a Secured Party might prejudice, imperil or otherwise affect the Collateral or the Security Interest therein. The Company will also, upon demand, pay to a Secured Party the amount of any and all reasonable, actual and necessary expenses, including the reasonable fees and expenses of its counsel and of any experts and agents, which such Secured Party may incur in connection with (i) the enforcement of this Agreement, (ii) the custody or preservation of, or the sale of, collection from, or other realization upon, any of the Collateral, or (iii) the exercise or enforcement of any of the rights of such Secured Party under the Transaction Documents.

8. Responsibility for Collateral. The Company assumes all liabilities and responsibility in connection with all Collateral, and the obligations of the Company hereunder or under the Transaction Documents shall in no way be affected or diminished by reason of the loss, destruction, damage or theft of any of the Collateral or its unavailability for any reason.

9. Security Interest Absolute. All rights of each Secured Party and all Obligations of the Company hereunder, shall be absolute and unconditional, irrespective of: (a) any lack of validity or enforceability of this Agreement or any agreement entered into in connection with this Agreement, or any portion hereof or thereof; (b) any change in the time, manner or place of payment or performance of, or in any other term of, all or any of the Obligations, or any other amendment or waiver of or any consent to any departure from the Transaction Documents or any other agreement entered into in connection with the foregoing; (c) any exchange, release or nonperfection of any of the Collateral, or any release or amendment or waiver of or consent to departure from any other collateral for, or any guaranty, or any other security, for all or any of the Obligations; (d) any action by a Secured Party to obtain, adjust, settle and cancel in its sole discretion any insurance claims or matters made or arising in connection with the Collateral; or (e) any other circumstance which might otherwise constitute any legal or equitable defense available to the Company, or a discharge of all or any part of the Security Interest granted hereby. Until the Obligations shall have been paid and performed in full, the rights of each Secured Party shall continue even if the Obligations are barred for any reason, including, without

limitation, the running of the statute of limitations or bankruptcy. The Company expressly waives presentment, protest, notice of protest, demand, notice of nonpayment and demand for performance. In the event that at any time any transfer of any Collateral or any payment received by a Secured Party hereunder shall be deemed by final order of a court of competent jurisdiction to have been a voidable preference or fraudulent conveyance under the bankruptcy or insolvency laws of the United States, or shall be deemed to be otherwise due to any party other than such Secured Party, then, in any such event, the Company's obligations hereunder shall survive cancellation of this Agreement, and shall not be discharged or satisfied by any prior payment thereof and/or cancellation of this Agreement, but shall remain a valid and binding obligation enforceable in accordance with the terms and provisions hereof. The Company waives all right to require any Secured Party to proceed against any other person or to apply any Collateral which such Secured Party may hold at any time, or to marshal assets, or to pursue any other remedy. The Company waives any defense arising by reason of the application of the statute of limitations to any obligation secured hereby.

10. Term of Agreement. This Agreement and the Security Interest shall terminate on the date on which all Obligations have been paid or discharged in full. Upon such termination, each Secured Party, at the request and at the expense of the Company, will join in executing any termination statement with respect to any financing statement executed and filed pursuant to this Agreement.

11. Power of Attorney; Further Assurances.

(a) Upon the occurrence and at any time during the continuance of any Event of Default, the Company authorizes each Secured Party, and does hereby make, constitute and appoint it, and its respective officers, agents, successors or assigns with full power of substitution, as the Company's true and lawful attorney-in-fact, with power, in its own name or in the name of the Company, to: (i) endorse any notes, checks, drafts, money orders, or other instruments of payment (including payments payable under or in respect of any policy of insurance) in respect of the Collateral that may come into possession of such Secured Party; (ii) to sign and endorse any UCC financing statement or any invoice, freight or express bill, bill of lading, storage or warehouse receipts, drafts against debtors, assignments, verifications and notices in connection with accounts, and other documents relating to the Collateral; (iii) to pay or discharge taxes, liens, security interests or other encumbrances at any time levied or placed on or threatened against the Collateral; (iv) to demand, collect, receipt for, compromise, settle and sue for monies due in respect of the Collateral; and (v) generally, to do, at the option of such Secured Party, and at the Company's expense, at any time, or from time to time, all acts and things which such Secured Party deems necessary to protect, preserve and realize upon the Collateral and the Security Interest granted therein in order to effect the intent of this Agreement and the Transaction Documents, all as fully and effectually as the Company might or could do; and the Company hereby ratifies all that said attorney shall lawfully do or cause to be done by virtue hereof. This power of attorney is coupled with an interest and shall be irrevocable for the term of this Agreement and thereafter as long as any of the Obligations shall be outstanding.

(b) On a continuing basis, the Company will make, execute, acknowledge, deliver, file and record, as the case may be, in the proper filing and recording places in any jurisdiction, including, without limitation, the California Secretary of State, all such instruments,

including appropriate financing and continuation statements and collateral agreements and filings with the United States Patent and Trademark Office and the United States Copyrights Office, and take all such action as may reasonably be deemed necessary or advisable, or as reasonably requested by any Secured Party, to perfect the Security Interest granted hereunder and otherwise to carry out the intent and purposes of this Agreement, or for assuring and confirming to each Secured Party the grant or perfection of the security interest in all the Collateral pursuant to this Agreement.

(c) The Company hereby irrevocably appoints each Secured Party as the Company's attorney-in-fact, with full authority in the place and stead of the Company and in the name of the Company, from time to time in each Secured Party's discretion, after the occurrence and at any time during the continuation of an Event of Default, to take any action and to execute any instrument which such Secured Party may deem necessary or advisable to accomplish the purposes of this Agreement, including:

a. To modify, in its sole discretion, this Agreement without first obtaining the Company's approval of or signature to such modification by amending Exhibit A, Exhibit B and Exhibit C, hereof, as appropriate, to include reference to any right, title or interest in any Copyrights, Patents or Trademarks acquired by the Company after the execution hereof or to delete any reference to any right, title or interest in any Copyrights, Patents or Trademarks in which the Company no longer has or claims any right, title or interest; and

b. To file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral.

12. Notices. All notices, requests, demands and other communications hereunder shall be in writing, with copies to all the other parties hereto, and shall be deemed to have been duly given when (i) if delivered by hand, upon receipt, (ii) if sent by facsimile, upon receipt of proof of sending thereof, (iii) if sent by nationally recognized overnight delivery service (receipt requested), the next business day or (iv) if mailed by first-class registered or certified mail, return receipt requested, postage prepaid, four days after posting in the U.S. mails, in each case if delivered to the following addresses:

If to the Company:	FORTEL, Inc. 46832 Lakeview Blvd. Fremont, CA 94538 Facsimile No.: 550-440-9696 Attn: Chief Financial Officer
If to Deephaven:	Deephaven Private Placement Trading Ltd. c/o Deephaven Capital Management LLC 130 Cheshire Lane Minnetonka, MN 55305 Facsimile No.: 952-249-5320 Attn: Bruce Lieberman
If to Harp:	Harp Investors LLC

c/o WEC Asset Management LLC
110 Colabaugh Pond Road
Croton-on-Hudson, NY 10520
Facsimile No.: 914-271-0889
Attn: Daniel Saks

With copies to
(for each Secured Party):

Bryan Cave Robinson Silverman
1290 Avenue of the Americas
New York, NY 10104
Facsimile No.: (212) 541-4630 and (212) 541-1432
Attn: Eric L. Cohen, Esq.

13. Other Security. To the extent that the Obligations are now or hereafter secured by property other than the Collateral or by the guarantee, endorsement or property of any other person, firm, corporation or other entity, then each Secured Party shall have the right, in its sole discretion, to pursue, relinquish, subordinate, modify or take any other action with respect thereto, without in any way modifying or affecting any of the rights and remedies hereunder of a Secured Party.

14. Actions by the Secured Party. Any action required or permitted hereunder to be taken by or on behalf of the secured parties signatory hereto shall, for such action to be valid, require the approval of the Two Thirds-in-Interest prior to the taking of such action. If the consent, approval or disapproval of the secured parties signatory hereto is required or permitted pursuant to this Agreement, such consent, approval or disapproval shall only be valid if given by the Two Thirds-in-Interest.

15. Confidentiality. In handling any confidential information communicated to it pursuant to this Agreement, each Secured Party and all employees and designated agents of each Secured Party shall exercise the same degree of care that each Secured Party exercises with respect to its own proprietary information of the same types to maintain the confidentiality of such confidential information received pursuant to this Agreement, except that disclosure of such information may be made: (i) to the subsidiaries or affiliates of a Secured Party in connection with their present or prospective business relations with Company, (ii) to prospective transferees or purchasers of any interest in the Obligations, provided that they have entered into a comparable confidentiality agreement in favor of Company and have delivered a copy to Company, (iii) as required by law, regulations, rule or order, subpoena, judicial order or similar order and (iv) as may be required in connection with the examination, audit or similar investigation of a Secured Party. Confidential information hereunder shall not include information that either: (a) is in the public domain, is in the knowledge or possession of a Secured Party when disclosed to such Secured Party, or becomes part of the public domain after disclosure to a Secured Party through no fault of such Secured Party; or (b) is disclosed to a Secured Party by a third party, provided such Secured Party does not have actual knowledge that such third party is prohibited from disclosing such information.

16. Miscellaneous.

(a) No course of dealing between the Company and a Secured Party, nor any failure to exercise, nor any delay in exercising, on the part of a Secured Party, any right, power or privilege hereunder or under the Transaction Documents shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder or thereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege.

(b) All of the rights and remedies of a Secured Party with respect to the Collateral, whether established hereby or by the Transaction Documents or by any other agreements, instruments or documents or by law shall be cumulative and may be exercised singly or concurrently.

(c) This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and is intended to supersede all prior negotiations, understandings and agreements with respect thereto. Except as specifically set forth in this Agreement, no provision of this Agreement may be modified or amended except by a written agreement specifically referring to this Agreement and signed by the parties hereto.

(d) In the event that any provision of this Agreement is held to be invalid, prohibited or unenforceable in any jurisdiction for any reason, unless such provision is narrowed by judicial construction, this Agreement shall, as to such jurisdiction, be construed as if such invalid, prohibited or unenforceable provision had been more narrowly drawn so as not to be invalid, prohibited or unenforceable. If, notwithstanding the foregoing, any provision of this Agreement is held to be invalid, prohibited or unenforceable in any jurisdiction, such provision, as to such jurisdiction, shall be ineffective to the extent of such invalidity, prohibition or unenforceability without invalidating the remaining portion of such provision or the other provisions of this Agreement and without affecting the validity or enforceability of such provision or the other provisions of this Agreement in any other jurisdiction.

(e) No waiver of any breach or default or any right under this Agreement shall be considered valid unless in writing and signed by the party giving such waiver, and no such waiver shall be deemed a waiver of any subsequent breach or default or right, whether of the same or similar nature or otherwise.

(f) This Agreement shall be binding upon and inure to the benefit of each party hereto and its successors and assigns, provided, that no party hereto may assign its rights, privileges or obligations under this Agreement without the prior consent of the other parties hereto.

(g) Each party shall take such further action and execute and deliver such further documents as may be necessary or appropriate in order to carry out the provisions and purposes of this Agreement.

(h) This Agreement shall be construed in accordance with the laws of the State of New York, except to the extent the validity, perfection or enforcement of a security interest hereunder in respect of any particular Collateral which are governed by a jurisdiction other than the State of New York in which case such law shall govern. Each of the parties hereto

irrevocably submits to the exclusive jurisdiction of any New York State or United States Federal court sitting in New York county over any action or proceeding arising out of or relating to this Agreement, and the parties hereto hereby irrevocably agree that all claims in respect of such action or proceeding may be heard and determined in such New York State or Federal court. The parties hereto agree that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. The parties hereto further waive any objection to venue in the State of New York and any objection to an action or proceeding in the State of New York on the basis of forum non conveniens.

(i) EACH PARTY HERETO HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT. THE SCOPE OF THIS WAIVER IS INTENDED TO BE ALL ENCOMPASSING OF ANY DISPUTES THAT MAY BE FILED IN ANY COURT AND THAT RELATE TO THE SUBJECT MATTER OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS AND ALL OTHER COMMON LAW AND STATUTORY CLAIMS. EACH PARTY HERETO ACKNOWLEDGES THAT THIS WAIVER IS A MATERIAL INDUCEMENT FOR EACH PARTY TO ENTER INTO A BUSINESS RELATIONSHIP, THAT EACH PARTY HAS ALREADY RELIED ON THIS WAIVER IN ENTERING INTO THIS AGREEMENT AND THAT EACH PARTY WILL CONTINUE TO RELY ON THIS WAIVER IN THEIR RELATED FUTURE DEALINGS. EACH PARTY FURTHER WARRANTS AND REPRESENTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL, AND THAT SUCH PARTY KNOWINGLY AND VOLUNTARILY WAIVES ITS RIGHTS TO A JURY TRIAL FOLLOWING SUCH CONSULTATION. THIS WAIVER IS IRREVOCABLE, MEANING THAT, NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING, AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS AND SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT. IN THE EVENT OF A LITIGATION, THIS AGREEMENT MAY BE FILED AS A WRITTEN CONSENT TO A TRIAL BY THE COURT.

(j) This Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and, all of which taken together shall constitute one and the same Agreement. In the event that any signature is delivered by facsimile transmission, such signature shall create a valid binding obligation of the party executing (or on whose behalf such signature is executed) the same with the same force and effect as if such facsimile signature were the original thereof.

* * * * *

IN WITNESS WHEREOF, the parties hereto have caused this Intellectual Property Security Agreement to be duly executed on the day and year first above written.

FORTEL, INC.

By: Asa W. Lanom
Name: Asa W. Lanom
Title: President & CEO

DEEPHAVEN PRIVATE PLACEMENT LTD.

By: _____
Name:
Title:

HARP INVESTORS LLC

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Intellectual Property Security Agreement to be duly executed on the day and year first above written.

FORTEL, INC.

By: _____
Name:
Title:

DEEPHAVEN PRIVATE PLACEMENT LTD.

By: *Bruce Lieberman*
Name: *Bruce Lieberman*
Title: *Director Private Placements*

HARP INVESTORS LLC

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Intellectual Property Security Agreement to be duly executed on the day and year first above written.

FORTELE, INC.

By: _____

Name:

Title:

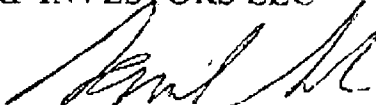
DEEPHAVEN PRIVATE PLACEMENT LTD.

By: _____

Name:

Title:

HARP INVESTORS LLC

By:  _____

Name:

Title:

EXHIBIT A

Copyrights

Description	Country/Jurisdiction	Registration Number
Viewpoint	United States	TX-2-837-209
Viewpoint (revisions)	United States	TX-3-213-063

Unregistered Software Products: see attached documents.

<u>Product Components</u>	<u>Operating System Supported</u>	<u>Oracle Supported</u>	<u>Current Release</u>
MS Exchange**	5.5(NT & Win2000 Pro) 2000(Win2000 Adv)		1.0
Oracle	See Oracle Supported		1.1.17
OS390**	NT4.0, Win2000		1.0
SQL Server**	6.5, 7.0(NT & Win2000 Pro) 2000(Win2000 Adv)		1.0
Terminal Server**	NT4.0, Win2000		1.0
Tuxedo**	Win2000, HP-UX 11		1.0

Summary Advisor/Vision

NT4.0, Win2000, Solaris 7 1.5.3(26901)

Service

Agents:

	<u>Managed Object Requirements</u>
DNS	1.0
FTP	1.0
HTTP	HTTP 1.x compliant web server 1.0
HTTPS	HTTP 1.x compliant web server 1.0
Ping	1.0
Pop3	1.0
PortScan	1.0
ProcessScan	1.0
SMTP	1.0
SQL	Oracle 8.0.5, Sybase 11.9.2 1.0

Summary

Agents:

Alerts	1.0
Alteon	Alteon Ace Director 3 1.0
Apache	1.3.6 1.0
CiscoRouter	SNMP, RFC 1213, Cisco MIBs 1.0
CiscoSwitch	SNMP, RFC 1213, Cisco MIBs 1.0
DiskSpace	1.0
FreeBSD	3.4, Intel platform 1.0
HP-UX	HP-UX 11.x 1.0
Linux	RedHat 6.1 1.0
Nokia	IP440 1.0
Oracle	Oracle 7.3.4, 8.0.5 1.0
SilkWorm	Model 2400 1.0
SnmNet	SNMP, RFC 1213 MIBS 1.0
Solaris	Solaris 7 and JVM 1.1.7 1.0
Sybase	11.9.2 1.0
Windows 2000	1.0

	<u>Product Components</u>	<u>Operating System Supported</u>	<u>Oracle Supported</u>	<u>Current Release</u>
Data Transfer Agents:	Windows NT Consolidator VaVP	NT4.0, Win2000, Solaris 7 NT4.0, Win2000, Solaris 7		1.0 1.0 1.0
SA/V Visualization	SA/V GUI	NT4.0, Win2000, Solaris 7		1.0
SDK:	Software Developers Kit	Win2000 and NT4.0		6.1.1

*4.3 version Power Agents Available Only
**NT/2000 Power Agent is Required

Products in Development – Sightline PIQ Shelf Report

Oracle Supported

Operating System Supported

Product Components

Expert Advisor/ Vision:	None		
Adapters:	None		
Power Agents:	Solaris Power Agent HP-UX Power Agent Unisys ClearPath MCP Linux Power Agent Tru64 Power Agent	6.2 Solaris 8 (32 Bit & 64 bit) 6.2 HP-UX 11 (32 bit & 64 bit) 6.2 MCP 47.1 & below 6.2 RH Linux 7.0 6.2 Tru64 5.1.4.x	8.0.5, 8.1.x 8.0.5, 8.1.x NA 8.1.x 8.0.5, 8.1.x
Interface Agents:	None		
Summary Advisor/Vision:	Summary/Advisor Vision	1.7 Windows	Does not include UNIX summary a
SDK:	None		

EXHIBIT B

Patents

Description	Country/Jurisdiction	Patent Number
Method and structure for evaluating and enhancing the performance of cache memory system	United States	5,452,440
Method and structure for evaluating and enhancing the performance of cache memory system	Canada	(Pending, Application No. 2167307)
Method and structure for evaluating and enhancing the performance of cache memory system	European Community	EP 0708942B1

EXHIBIT C

Trademarks

Description	Country/Jurisdiction	Registration Number
VIEWPOINT	United States	2,204,955
DATAMETRICS	United States	2,008,196
ZITEL	United States	1,230,923
ZITEL	European Community	27326
THE FORTEL GROUP	United States	1,737,071
SIGHTLINE	United States	(Pending, Application Serial No. 76-023,849)
SIGHTLINE	Canada	(Pending, Application No. 107077900)
SIGHTLINE	European Community	1801570
SIGHTLINE	Switzerland	482456
FORTEL	United States	(Pending, Application Serial No. 76-023,847)
FORTEL	Canada	(Pending, Application No. 107077400)
FORTEL	European Community	1801604
FORTEL	Switzerland	482457