TO THE ASSISTANT COMMISSIONER FOR PATENTS

1. Name of conveying party(ies): (If multiple assignors, list numerically)
   1. Andrew H. Cragg, M.D.
   2. Robert L. Assell
   3. Eugene A. Dickhaut

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

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

   Name: aXiaMed, Inc.
   Internal Address:
   Street Address: 1800 Sir Tyler Drive, Suite 101
   City: Wilmington State: NC ZIP: 28405

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

3. Nature of conveyance:
   (X) Assignment
   ( ) Merger
   ( ) Security Agreement
   ( ) Change of Name
   ( ) Other:

   Execution Date: (If multiple assignors, list execution dates in numerical order corresponding to numbers indicated in 1 above)
   1. April 4, 2003

4. Application number(s) or Patent number(s):
   ( ) Application(s) filed herewith Execution Date(s):
   (X) Patent Application No.: 10/309,416
   Filing Date: December 5, 2002
   ( ) Patent No.: Issue Date:

   Additional numbers attached? ( ) Yes (X) No

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

   Name: Gerard von Hoffmann
   KNOBBE, MARTENS, OLSON & BEAR, LLP
   Customer No. 20,995
   Internal Address: Fourteenth Floor
   Street Address: 2040 Main Street
   City: Irvine State: CA ZIP: 92614
   Attorney's Docket No.: AXIAMD.005CP4

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 1.21(h)): $40

   (X) Enclosed
   (X) Authorized to be charged to deposit account if any additional fees are required, or to credit any overpayment

8. Deposit account number: 11-1410

   Please charge this account for any additional fees which may be required, or credit any overpayment to this account.


   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.

   Paul D. Tripodi, Jr
   Name of Person Signing

   Signature

   Date 4/21/03

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

Mail documents to be recorded with required cover sheet information to:

U.S. Patent and Trademark Office
Attn: Assignment Division
Crystal Gateway-4
1213 Jefferson Davis Highway, Suite 320
Arlington, VA 22202

PATENT
REEL: 013977 FRAME: 0981

40.847
Registration No.

04/25/2003 8TDM11 00000034 10309416
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ASSIGNMENT

WHEREAS, We, Andrew H. Cragg, M.D., a United States citizen, residing at 4502 Edina Blvd., Edina, MN 55432, Robert L. Assell, a United States citizen, residing at 595 Fond View Drive, Mendota Heights, MN 55120, and Eugene A. Dickhardt, a United States citizen, residing at 801 Continental Drive, St. Paul, MN 55112, have invented certain new and useful improvements in a METHOD AND APPARATUS FOR SPINAL DISTRACTION AND FUSION for which we have filed an application for Letters Patent in the United States, Application No. 10/309,416, filed on December 3, 2002;

AND WHEREAS, xXiaMed, Inc. (hereinafter "ASSIGNEE"), a California Corporation, with its principal place of business at 1800 Sir Tyler Drive, Suite 101, Wilmington, North Carolina 28405, desires to acquire the entire right, title, and interest in and to the said improvements and the said Application:

NOW, THEREFORE, in consideration of the sum of One Dollar ($1.00) to me in hand paid, and other good and valuable consideration, the receipt of which is hereby acknowledged, we, the said inventors, do hereby acknowledge that we have sold, assigned, transferred and set over, and by these presents do hereby sell, assign, transfer and set over, unto the said ASSIGNEE, its successors, legal representatives and assigns, the entire right, title, and interest throughout the world in, to and under the said improvements, and the said application and all provisional applications relating thereto, and all divisions, renewals and continuations thereof, and all Letters Patent of the United States which may be granted thereon and all reissues and extensions thereof, and all rights of priority under International Conventions and applications for Letters Patent which may hereafter be filed for said improvements in any country or countries foreign to the United States, and all Letters Patent which may be granted for said improvements in any country or countries foreign to the United States and all extensions, reissues and reissues thereof, and we hereby authorize and request the Commissioner of Patents of the United States, and any Official of any country or countries foreign to the United States, whose duty it is to issue patents on applications as aforesaid, to issue all Letters Patent for said improvements to the said ASSIGNEE, its successors, legal representatives and assigns, in accordance with the terms of this instrument.

AND WE HEREBY covenant and agree that we will communicate to the said ASSIGNEE, its successors, legal representatives and assigns, any facts known to us respecting said improvements, and testify in any legal proceeding, sign all lawful papers, execute all divisional, continuing and reissue applications, make all rightful oaths and generally do everything possible to aid the said ASSIGNEE, its successors, legal representatives and assigns, to obtain and enforce proper patent protection for said improvements in all countries.

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 4th day of APR, 2003.

Andrew H. Cragg, M.D.

STATE OF MINNESOTA } ss.
COUNTY OF HENNEPIN

On April 4, 2003 before me, JACQUELINE SCHENDEL, personally appeared Andrew H. Cragg, M.D. personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Notary Signature

JACQUELINE SCHENDEL
NOTARY PUBLIC - MINNESOTA
MY COMMISSION EXPIRES JANUARY 31, 2006

PATENT
REEL: 013977 FRAME: 0982
IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 24th day of MARCH, 2003

Robert L. Assell

STATE OF North Carolina  
COUNTY OF New Hanover  

On March 24, 2003, before me, Jacqueline W. Robbins, personally appeared Robert L. Assell personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Jacqueline W. Robbins  
Notary Signature  
My commission expires 10-16-04

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this ____ day of ____________, 20___.

Eugene A. Dickhutt

STATE OF  
COUNTY OF  

On ____________, before me, ____________________________, personally appeared Eugene A. Dickhutt personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Notary Signature
IN TESTIMONY WHEREOF, I hereunto set my hand and seal this ___ day of ____________, 20__.

Robert L. Assell

STATE OF
COUNTY OF

On ______________, before me, ____________________________________, personally appeared Robert L. Assell personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

Notary Signature

IN TESTIMONY WHEREOF, I hereunto set my hand and seal this 21st day of MARCH, 20__.

Eugene A. Dickhut

STATE OF
COUNTY OF

On 3/26/03, before me, ____________________________________, personally appeared Eugene A. Dickhut personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument, and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

[SEAL]

GREGORY C. BETHKE
NOTARY PUBLIC
MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPRESSES 1-31-2005

Notary Signature

3/26/03