

11-05-2003

FORM PTO 1595  
1-31-92

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REC'D



U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

To the Honorable Commissioner of Patents :

102592309

Additional documents or copy thereof.  
Conveying Party(ies):

1. Name and Address of Conveying Party(ies):

Critical Devices, Inc., 1345 Valwood Parkway, Ste .302  
Carrollton, Texas 75006

Name: ASAP Software Express, Inc.

Internal Address:

Street Address: 850 Asbury Drive

City: Buffalo Grove,

State: Illinois Zip: 60089

Corporation/State Illinois

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

Corporation/State Texas

Additional name(s) & Address(es) attached?  Yes  No

3. Nature of conveyance:

- Assignment  Merger
- Security Agreement  Change of Name
- Other: Peaceful Repossession Agreement

Execution Date: May 29, 2003

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):

6,477,667 issued November 5, 2002

Additional Numbers  Yes  No

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

Name: Charles S. Fish, Esq.  
Internal Address: Baker Botts L.L.P.  
Street Address: 2001 Ross Avenue, Suite 600  
City: Dallas  
State: Texas Zip 75201-2980

6. Total number of application and patents involved:

7. Total Fee (37C.F.R. 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)

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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.

Charles S. Fish Reg. No. 35,870  
Name of Person Signing

Signature

29 Oct 03  
Date

Total number of pages including cover sheet

OMB No. 0651-0011 (exp. 4/94)

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Mail documents to be recorded with required cover sheet information:

11/04/2003 LUMELLER 00000117 6477667  
01 FC:0021 40.00 DP

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FINANCE SECTION

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**PEACEFUL REPOSSESSION AGREEMENT  
DATED: MAY 29, 2003**

Critical Devices, Inc.  
ATTN: Mr. Andrew Levi  
1345 Valwood Parkway, Suite 302  
Carrollton, Texas 75006

Re: Secured Loan Agreement and Note; IP Security Agreement; Services Agreement; and Escrow Agreement, each dated January 18, 2001, by and between Critical Devices, Inc. ("Borrower") and ASAP Software Express, Inc. ("ASAP") (collectively, and as amended from time to time, the "Loan Documents").

Gentlemen:

Reference is made to the above-referenced Loan Documents. Capitalized terms used in this Peaceful Repossession Agreement (the "Agreement") and not otherwise defined shall have the respective meanings ascribed to them in the Loan Documents.

**A. GENERAL ACKNOWLEDGMENTS AND AGREEMENTS**

1. Borrower has previously acknowledged, and by the signature below hereby acknowledges, that Borrower is in default of certain terms, conditions and covenants of the Loan Documents. Borrower has acknowledged, and by the signature below hereby confirms an Event of Default under the Loan Documents exists, continues and is not susceptible of cure, and that ASAP has the right to, and is warranted in, exercising its rights and remedies against the Collateral in accordance with the provisions of the Loan Documents and the Uniform Commercial Code (the "UCC").

2. Borrower does not contest that ASAP holds a valid and duly perfected first lien and security interest in the Collateral.

3. Borrower hereby represents and warrants to ASAP that during the past two years from the date of this Agreement, the only material disbursements and/or other transfers (material disbursement, and other transfer shall mean any thing of \$25,000 or more in value excluding ordinary payroll, normal travel expense reimbursement, or payments for normal business operating expenses) by Borrower to Insiders (for purposes of this Agreement, "Insiders" shall include, but is not necessarily limited to, officers, directors, equity holders and affiliates of Borrower, Aztec Systems, Inc., and/or Andrew Levi or any of their affiliates) are described on Exhibit "A" and that all other material transfers of money or property, including intellectual property licenses and/or other rights, from Borrower are recorded and evident on the books and records of Borrower, which shall also be surrendered hereunder. Further, Borrower represents to

ASAP that no Insider has been transferred any rights to or ownership interest in the "ASM" software or "ASM" code.

4. Borrower hereby expressly waives any and all claims and causes of action it may now or in the future have in respect of the validity and priority of ASAP's lien and in respect of ASAP's exercise of its rights and remedies in respect of the Collateral as contemplated hereby, under the Loan Documents and the UCC.

5. Borrower hereby irrevocably releases and discharges ASAP, its affiliated companies, and its agents, officers and successors and assigns (collectively, the "ASAP Group"), from any and all claims or demands of whatsoever nature, whether known or unknown, whether having arisen or hereafter arising out of or relating to (i) the Loan Documents; (ii) ASAP's actions in connection with or pursuant to the Loan Documents; or (iii) any other matter or dealing between or among the Borrower and ASAP. Conditioned upon return of any and all Collateral, ASAP releases and discharges Borrower from any and all claims or demands of whatsoever nature, whether known or unknown, whether having arisen or hereafter arising out of or relating to (i) the Loan Documents; (ii) Borrower's actions in connection with or pursuant to the Loan Documents; or (iii) any other matter or dealing between or among the Borrower and ASAP; provided, however, that if any acknowledgements and/or representations included herein are incorrect, ASAP's release of Borrower shall be null and void.

6. Borrower agrees never to institute or, except as required by law, aid in the institution or prosecution of any action or suit at law or in equity against ASAP, or the ASAP Group, or any one on account of any damage, loss, or injury either to person or property, known or unknown, past, present, or future, arising out of the claims released herein. Conditioned upon return of any and all Collateral, ASAP agrees never to institute or, except as required by law, aid in the institution or prosecution of any action or suit at law or in equity against Borrower on account of any damage, loss, or injury either to person or property, known or unknown, past, present, or future, arising out of the claims released herein; provided, however, that if any acknowledgements and/or representations included herein are incorrect, ASAP's release of Borrower shall be null and void.

7. Each of the undersigned represents and warrants that it is the current legal and beneficial owner of its respective claims released hereunder, that it has made no transfer or assignment of any or all of the claims released hereunder and that it has the authority to execute this Agreement.

8. Borrower hereby agrees to indemnify and hold ASAP harmless from and against all acts or omissions taken, and all decisions made by ASAP, or the ASAP Group, in good faith (other than through gross negligence or willful misconduct) in connection with the enforcement of its rights and remedies against the Collateral as provided in the Loan Documents and the UCC and as contemplated hereby and to pay the reasonable fees and expenses, including attorneys' fees and legal expenses, actually incurred by ASAP in connection with the defense of any such action, omission or decision, including any suit or proceeding relating thereto and any appeal

therefrom and the costs of any settlement thereof. Conditioned upon return of any and all Collateral, ASAP hereby agrees to hold Borrower harmless from and against all acts or omissions taken, and all decisions made by Borrower in good faith (other than through gross negligence or willful misconduct) in connection with the enforcement of its rights and remedies against the Collateral as provided in the Loan Documents and the UCC and as contemplated hereby; provided, however, that if any acknowledgements and/or representations included herein are incorrect, ASAP's Agreement to hold harmless Borrower shall be null and void. Borrower and ASAP acknowledge and agree that all obligations or liabilities, including but not limited to claims of infringement or other claims by third parties related to the existence or performance of the ASM system that are incurred concerning this Collateral as described in the Loan Documents after the return of the Collateral pursuant to this Agreement shall be the obligations of ASAP. Both Borrower and ASAP further acknowledge that any and all obligations or liabilities, including but not limited to, claims of infringement or other claims by third parties related to the existence or performance the ASM system concerning the Collateral as described in the Loan Documents that occurred prior to the return of the collateral pursuant to this Agreement is the obligations of the Borrower. Borrower hereby acknowledges and represents to ASAP that it knows of no claims of infringement or other claims by third parties related to the existence or performance of the ASM system.

9. The Borrower acknowledges and represents that the Software Escrow Agreement by and between the Borrower and Toshiba dated May 31, 2001 (the "Toshiba Agreement"), and the Software Escrow Agreement by and between Borrower and Stonehouse Technologies dated July 24, 2001 ("Stonehouse Agreement") are in effect, but that the source codes escrowed pursuant to both agreements shall not be released. Specifically, the Borrower acknowledges and agrees that the requirements provided for under both the Toshiba Agreement and the Stonehouse Agreement have not been met and that Borrower shall not release the source codes pursuant to either the Toshiba Agreement or the Stonehouse Agreement.

10. Borrower acknowledges and represents to ASAP that the Software Escrow Agreement by and between Borrower and Netsolve dated June 25, 2001 ("Netsolve Agreement") is in full force and effect. ASAP acknowledges that Borrower shall comply with the terms of the Netsolve Agreement including the obligation to deliver a copy of the ASM source code to Netsolve pursuant to the Netsolve Agreement. Borrower agrees and acknowledges that Netsolve is in compliance with the Netsolve Agreement as of the date of this Agreement and would be entitled to the ASM source code under the current Netsolve Agreement. In the event that the Borrower enters into a termination agreement with Netsolve within forty-five (45) days of the date of this Agreement that will result in the termination of the Netsolve Agreement on or before October 31, 2003 then the requirement, if any, to transfer the source code pursuant to the Netsolve Agreement will be based on the then established covenants of the termination agreement between Netsolve and CDI.

11. Borrower hereby acknowledges and represents to ASAP that there are no other Software Escrow Agreements other than the ones listed in A9 and A10 above, namely the Toshiba Agreement, the Stonehouse Agreement and the Netsolve Agreement.

12. Borrower hereby acknowledges and represents to ASAP that there are no creditors or judgment lien holders holding a security interest, lien, or other interests in the Collateral that has been pledged to ASAP pursuant to the Loan Documents. Further, Borrower acknowledges and agrees that the judgment obtain by A.I. Credit Corp. has been released.

**B. AGREEMENTS REGARDING FORECLOSURE SALE**

1. Under the rights afforded ASAP under the provisions of the Loan Documents and the UCC, ASAP hereby demands that Borrower surrender possession of all Collateral and Borrower agrees to peacefully surrender the Collateral to ASAP without the necessity of judicial process, and acknowledge that ASAP's action as effected hereby does not, and will not constitute a breach of the peace.

2. Borrower agrees to ASAP's acceptance in satisfaction proposal. If an objection is timely filed to ASAP's proposal, as provided for in the UCC, Borrower agrees that ASAP has the right to foreclose through public or private sale, as set forth in the Loan Documents and/or the UCC. If requested by ASAP, Borrower hereby agrees to assemble the Collateral at a location in Dallas, Texas deemed reasonably convenient to Borrower and ASAP. Borrower hereby agrees that ASAP shall have reasonable access to the Borrower's premises, including leased premises, in order to coordinate and prepare for the disposition of the Collateral and/or conduct any public or private sales in connection therewith. Borrower hereby agrees to permit ASAP to dispose of the Collateral from and at any of Borrower's premises where such Collateral may be assembled. Borrower hereby agrees that the Collateral can remain at the Borrower's premises without charge to ASAP for storage from now until such time as the Collateral have been disposed of.

3. Borrower agrees that under the provisions of the Loan Documents, ASAP shall have the right to sell, lease or otherwise dispose of the Collateral in its then condition or following any commercially reasonable preparation. The disposition of the Collateral may be by acceptance in satisfaction, public or private sale and may be made by way of one or more contracts. Borrower agrees that any sale or other disposition may be as a unit or in parcels and at any time and place on commercially reasonable terms. By Borrower's signature below, Borrower agrees to renounce any right to: (i) notification of any sale or disposition of the Collateral; and (ii) redeem the Collateral. Borrower acknowledges receipt of a signed copy of this Agreement constitutes receipt of a Notice of Sale pursuant to UCC, and agrees that all methods, manners and forms, of said notice are commercially reasonable.

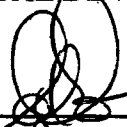
4. If all of the Collateral is not returned to ASAP, ASAP retains all of its rights and remedies under the Loan Documents, and ASAP may exercise any and all rights and remedies provided for in the Loan Documents or otherwise in connection with the Obligations. The Borrower hereby waives and releases (and ASAP hereby acknowledges such waiver and release) of any and all rights of redemption, valuation, appraisalment, stay of execution, notice of intention to mature or declare due the whole or any part of the Obligations and the rights to a marshalling of the Collateral.

5. The Borrower and ASAP acknowledge and agree that Borrower will continue to maintain physical possession of the furniture, fixtures and equipment, computers and related packaged software (packaged software shall not include the software developed by Borrower, including, but not limited to the "ASM" software or the "ASM" Code) for no longer than sixty (60) days from the date of this Agreement (the "Collateral Usage Period") in order to service current customers only. Upon expiration of the Collateral Usage Period, the Borrower shall turn over physical possession of all the Collateral to ASAP or the then current owner of the Collateral as directed by ASAP.

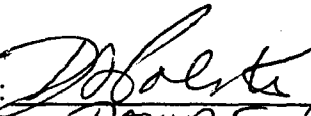
6. Borrower and ASAP acknowledge and agree that Borrower will be allowed to continue to service the CDI Partners and their respective customers for a period of not more than one hundred thirty five (135) days from the date of this agreement. In the event that Borrower enters into a termination agreement with Netsolve within 45 days as described herein, then Borrower shall be permitted to continue to service the CDI Partners and their respective customers until December 31, 2003.

ACKNOWLEDGED AND AGREED TO  
AS TO ALL PARAGRAPHS:

CRITICAL DEVICES, INC.

By:   
Name: ANDREW LEU  
Title: PRESIDENT

ASAP EXPRESS SOFTWARE, INC.

By:  5/29/03  
Name: DAVID S. POZSTER  
Title: VICE PRESIDENT, CONTROL CORP

**PEACEFUL REPOSSESSION AGREEMENT  
DATED: MAY 29, 2003**

**Exhibit A**

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**None**

**UNANIMOUS CONSENT OF THE BOARD  
OF DIRECTORS OF CRITICAL DEVICES, INC.**

THE UNDERSIGNED, constituting all of the duly designated and appointed directors (the "Directors") of the Board of Directors (the "Board") of CRITICAL DEVICES, INC. (the "Company"), a corporation duly organized and validly existing under the laws of the State of Texas, and in lieu of a special meeting of the Board, do hereby consent to, adopt, approve and ratify, in their entirety, the following resolutions, which shall have the same force and effect as if so consented to, adopted, approved and ratified by a unanimous vote of the Board at a duly called special meeting:

WHEREAS, it is proposed that, in connection with Event of Default existing under the Secured Loan Agreement, executed by and between the Company and ASAP Software Express, Inc. ("ASAP"), the Company enter into that certain Peaceful Possession Agreement (the "Agreement") with ASAP, providing for the turnover of the Company's property and assets that are collateral for obligations arising under the Secured Loan Agreement; and

WHEREAS, the proposed Agreement has been submitted to and reviewed by or discussed with the Directors and the Directors believe that it is in the best interest of the Company to approve the same.

NOW, THEREFORE BE IT RESOLVED, that the form, terms, and provisions of the Agreement are hereby in all respects approved; and it is

FURTHER RESOLVED, Andrew Levi is authorized to execute, enter into and comply with the terms and provisions of the Agreement in all respects, and to otherwise assist in ASAP's foreclosure upon its collateral, including the execution of such additional documents, waivers and/or consents as requested by ASAP in connection with its efforts to foreclose upon its collateral; and it is

FURTHER RESOLVED, that this consent may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument; and it is


FURTHER RESOLVED, that delivery of an executed counterpart of this consent by facsimile shall be equally as effective as delivery of an executed original counterpart.

[Remainder of page intentionally left blank. Signature page follows.]

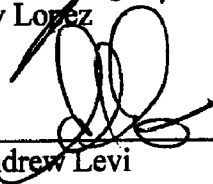


IN WITNESS WHEREOF, this Unanimous Consent has been executed by each Director of the current Board of Directors of Critical Devices, Inc.

DATED this 20<sup>th</sup> day of May 2003.

  
\_\_\_\_\_  
Leo Lopez - Chairman

  
\_\_\_\_\_  
Jay Lopez

  
\_\_\_\_\_  
Andrew Levi

May 29, 2003  
Page 2

Very truly yours,

By: *[Signature]* 5/29/03  
Its: VICE PRESIDENT, CONTROLLER

Proposal accepted:

~~Critical Devices, Inc.~~

By: *[Signature]*  
Its: PRESIDENT