

04-19-2004



OFFICE OF PUBLIC RECORDS

Form PTO-1595 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002)

102724860 PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

2004 APR 15 PM 3:48

FINANCE SECTION

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

<p>1. Name of conveying party(ies): Metawave Communications Corporation <u>4-15-04</u></p> <p>Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	<p>2. Name and address of receiving party(ies) Name: <u>Kathrein-Werke KG</u> Internal Address: _____ Street Address: _____  Anton-Kathrein-Strasse 1-3 83022 Rosenheim GERMANY  City: _____ State: _____ Zip: _____ Additional name(s) &amp; address(es) attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>3. Nature of Conveyance: <input checked="" type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input type="checkbox"/> Other _____ Execution Date: <u>February 12, 2004</u></p>	

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

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

<p>A. Patent Application No.(s): <u>10/242,276</u></p>	<p>B. Patent No.(s): _____</p>
<p>Additional numbers attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	

<p>5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>David H. Tannenbaum</u> <u>FULBRIGHT &amp; JAWORSKI L.L.P.</u> Internal Address: <u>Atty. Dkt.: 65948/G99999/10313881</u> Street Address: <u>2200 Ross Avenue, Suite 2800</u>  City: <u>Dallas</u> State: <u>TX</u> Zip: <u>75201-2784</u></p>	<p>6. Total number of applications and patents involved: <u>1</u></p> <p>7. Total fee (37 CFR 3.41) \$ <u>40.00</u> <input type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account <input type="checkbox"/> Authorized to be charged to credit card (Form 2038 enclosed)</p> <p>8. Deposit account number: <u>06-2380</u> (Attach duplicate copy of this page if paying by deposit account)</p>
--	--

DO NOT USE THIS SPACE

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.*

<p><u>R. Ross Viguet, Reg. 42,203</u> Name of Person Signing</p>	<p><u>[Signature]</u> Signature</p>	<p><u>April 12, 2004</u> Date</p>
<p>Total number of pages including cover sheet, attachments, and documents: <u>5</u></p>		

04/16/2004 6TOM11 00000019 062380 10242276  
01 FC:8021 40.00 DA

## ASSIGNMENT

This Assignment ("Assignment") is made and entered into as of the 12 day of February, 2004, by Metawave Communications Corporation, a corporation organized and existing under the laws of the State of Delaware, having its principal place of business at 12525 Willows Road NE, Suite 130, Redmond, Washington 98034 ("Assignor") and Kathrein-Werke KG, a corporation organized and existing under the laws of the Federal Republic of Germany, having its principal place of business at Anton-Kathrein-Strasse 1-3, 83022 Rosenheim, Germany ("Buyer").

### RECITALS

A. Assignor is a debtor in Chapter 11 Bankruptcy Case 03-11272 pending before the United States Bankruptcy Court for the Western District of Washington (the "Court").

B. Assignor is operating its business as a debtor-in-possession pursuant to Section 1107 of the Bankruptcy Code;

C. Assignor and Buyer are parties to that certain Asset Purchase And Sale Agreement (the "Purchase Agreement") dated as of January 7, 2004.

D. Pursuant to that certain Order (A) Authorizing Sale of Certain Intellectual Property Assets Pursuant to Bankruptcy Code Section 363(B), dated January 8, 2004 (the "Order") the Court authorized the Assignor to consummate the transactions contemplated by the Purchase Agreement.

E. Subject to the limitations set forth in the Purchase Agreement, Assignor owns or may assert a claim to all or to a portion of the worldwide right, title, and interest in and to the following (hereinafter the "Acquired Patent Assets"):

- (a) the patents and patent applications listed on Exhibit A hereto and the corresponding provisional applications and other parent applications, if any, and all continuations, continuations-in-part, divisionals, reissues, reexaminations and the like in the United States and all patents, patent applications, utility model applications, registrations and the like in other countries worldwide that correspond to any of them, including at least, but not necessarily being limited to, a patent, patent application, utility model, registration or the like in a foreign country corresponds to a U.S. patent application or patent if either (i) it claims the priority benefit of the filing date of the U.S. patent application or (ii) it was filed by or for Assignor or a person or entity affiliated with Assignor and claims or discloses the same invention as the U.S. patent application or patent (the "Patents");
- (b) the worldwide right to claim domestic and international priority to any and all of the aforesaid patents, patent applications, utility model applications, registrations and the like;
- (c) the patentable inventions of Assignor disclosed or claimed in any of the aforesaid patents, patent applications, utility model applications, registrations and the like;
- (d) the worldwide right (but not the obligation) to prosecute any or all of the aforesaid applications, registrations and the like; and
- (e) the worldwide right (but not the obligation) to enforce any or all of the aforesaid patents, patent applications, utility model applications, registrations and the like, and collect and retain for itself damages, if any, for infringement by any third parties which infringement occurred prior to or after the date hereof.

C. Pursuant to the terms of the Purchase Agreement, Assignor desires to transfer all of its claims, right, title and interest worldwide to any and all of the Acquired Patent Assets to Buyer, and Buyer desires to secure same.

NOW, THEREFORE, in consideration of \$10.00 and other good and valuable consideration paid to Assignor by Buyer, the receipt and sufficiency of which Assignor hereby acknowledges:

1. Assignment. Assignor hereby assigns to Buyer its entire claim, right, title, and interest worldwide in and to the *Acquired Patent Assets* and any and all portions and parts thereof. Buyer hereby receives and accepts from Assignor such claim, right, title, and interest worldwide in and to the *Acquired Patent Assets* and any and all portions thereof.

2. Miscellaneous

2.1 Assignor hereby authorizes and requests the United States Commissioner of Patents, and such patent office officials in any and all other countries worldwide as are duly authorized by their applicable laws to issue any and all patents on the inventions which are claimed or disclosed in the *Acquired Patent Assets* (the "*Inventions*") to Buyer as the owner of Assignor's entire claim, right, title, and interest worldwide in and to the *Acquired Patent Assets* and any and all portions and parts thereof for the sole use and benefit of Buyer, its successors, assigns and legal representatives.

2.2 Assignor hereby agrees, without further consideration and without expense to it, to sign all lawful papers and to perform all other lawful acts which Buyer may request to make this assignment fully effective, including, by way of example but not of limitation, the following:

(a) Prompt execution of all original, continuation, continuation-in-part, divisional, substitute, reissue, re-examination and other United States and foreign patent applications on the *Inventions*, and all lawful documents requested by Buyer to further the prosecution of any of the patents, patent applications, utility model applications, registrations and the like of the *Acquired Patent Assets*; and

(b) Cooperation to the best of its ability in the execution of all lawful documents, the production of evidence, and the prosecution or defense, as the case may be, of nullification, reissue, extension, interference or infringement proceedings involving any of the *Inventions*.

2.3 No party hereto shall be deemed to be the representative, partner, joint-venturer, or agent of any other party hereto by virtue of this Assignment; provided, however, that in the event Assignor is unwilling, unable or unavailable to sign lawful papers or to perform other lawful acts pursuant to section 2.2 of this Assignment to make this Assignment effective for the *Acquired Patent Assets* or any portion or part thereof in any country, Assignor hereby irrevocably and permanently appoints and authorizes Buyer to sign such papers and to perform such other lawful acts as and on behalf of Assignor worldwide to the extent doing so is not unlawful under applicable laws of such jurisdiction.

2.4 This Assignment may be amended, modified, superseded, canceled, renewed, or extended and the terms and conditions hereof may be waived only by a written instrument signed by the parties or, in the case of a waiver, by the party waiving compliance.

2.5 This Assignment shall be governed by and construed in accordance with United States federal law and with the laws of the State of Washington without regard to its choice of law provisions.

2.6 In the event that any condition, covenant, or other provision herein contained is held to be invalid or unenforceable by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Assignment and shall in no way affect any other covenant, condition or other provision herein contained. If such condition, covenant or other provision shall be deemed invalid or unenforceable due to its scope or breadth, such condition, covenant or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

ASSIGNMENT

Page 2 of 4

PATENT  
REEL: 015211 FRAME: 0230

## EXHIBIT A of ASSIGNMENT

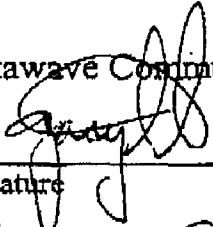
## UNITED STATES PATENTS AND PATENT APPLICATIONS

Metawave Patent ID	Status	Serial Number	Patent Title	Patent Description
P068US	Pending	10/242,276	Co-Located Antenna Array for Passive Beam Forming	An integrated cylindrical antenna array comprising at least two separate interleaved arrays separately controllable and responding to either the same or separate frequency bands. Both arrays operate with substantially the same phase center and substantially within the same effective aperture.

**REDACTED**

IN WITNESS WHEREOF Assignor and Buyer each has hereunto set its hand:

Metawave Communications Corporation

  
\_\_\_\_\_  
Signature

GARY S. FLOOD  
\_\_\_\_\_  
Typed or printed name

CEO  
\_\_\_\_\_  
Title

Feb 12, 2004  
\_\_\_\_\_  
Date

STATE OF Washington )

COUNTY OF Spokane )

ss.

On this 12<sup>th</sup> day of February, 2004, personally appeared before me  
Gary S. Flood, who proved to me on the basis of satisfactory evidence to be  
the person whose name is subscribed to on this Assignment, and acknowledged that he executed the  
same.

Christie R. Allen  
\_\_\_\_\_  
NOTARY PUBLIC, Residing at:

Spokane zxWA

Kathrein-Werke KG

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or printed name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

ASSIGNMENT

Page 3 of 4