

Attorney Docket No. 020044-001112US

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

Form PTO-1595 (Rev. 06/04)  
OMB No. 0651-0027 (exp. 6/30/2005)

**RECORDATION FORM COVER SHEET  
PATENTS ONLY**

To the Director of the U.S. Patent and Trademark Office: Please record the attached documents or the new address(es) below.

**1. Name of conveying party(ies)/Execution Date(s):**

Elizabeth D. Liddy

Execution Date(s) December 31, 1996

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

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

Name: TextWise Company, L.L.C.

Internal Address: \_\_\_\_\_

2-212 Center for Science and Technology

Street Address: Syracuse University

City: Syracuse

State: NY

Country: USA Zip: 13244-4100

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

**3. Nature of conveyance:**

- Assignment  Merger
- Security Agreement  Change of Name
- Government Interest Assignment
- Executive Order 9424, Confirmatory License
- Other Amended Employment Agreement

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

This document is being filed together with a new application.

A. Patent Application No.(s)

B. Patent No.(s)

6,829,613 (10/137,740)

Additional numbers attached?  Yes  No

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

Name: Gerald T. Gray

Internal Address: \_\_\_\_\_

TOWNSEND AND TOWNSEND AND CREW LLP

Street Address: Two Embarcadero Center,  
Eighth Floor

City: San Francisco

State: California Zip: 94111-3834

Phone Number: (415) 576-0200

Fax Number: (415) 576-0300

Email Address: gtgray@townsend.com

**6. Total number of applications and patents involved:**

1

**7. Total fee (37 CFR 1.21(h) & 3.41) \$ 40.00**

- Authorized to be charged by credit card
- Authorized to be charged to deposit account
- Enclosed
- None required (government interest not affecting title)

**8. Payment Information**

a. Credit Card Last 4 numbers \_\_\_\_\_  
Expiration Date \_\_\_\_\_

b. Deposit Account Number 20-1430

Authorized User Name Townsend and

Townsend and Crew LLP

**9. Signature:**



Signature

December 14, 2004

Date

Gerald T. Gray

Name of Person Signing Atty. Reg. No. 41,797

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

13

Documents to be recorded (including cover sheet) should be faxed to (703) 306-5995, or mailed to:  
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O.Box 1450, Alexandria, VA 22313-1450

CH \$40.00 201430 6829613

**AMENDED EMPLOYMENT AGREEMENT**

AGREEMENT made by and between TaxWise Company, L.L.C., 2-212 Center for Science and Technology, Syracuse University, Syracuse, New York 13244-4100 (the "Company") and Elizabeth D. Uddy, 2-212 Center for Science and Technology, Syracuse University, Syracuse, New York 13244 ("Employee").

1. Employment. The Company hereby employs Employee and Employee hereby accepts employment with the Company upon the terms and conditions hereinafter set forth.

2. Duties.

(a) Employee shall be the President and Chief Executive Officer of the Company and shall perform the customary duties of such position and such other commensurate duties as may be assigned from time to time by the Members of the Company. Employee agrees to abide by the reasonable rules, regulations, instructions, personnel practices, employment manuals and policies of the Company, as they may exist or be modified from time to time by the Company and as they apply to all executive employees of the Company, to the extent they do not contradict the express terms of this Agreement. The Company and Employee agree and understand that Employee's service as President is subject to approval by the Company's Members and that Employee shall hold such office only at the pleasure of the Members.

(b) Employee shall devote sufficient working time and attention and best efforts to the business of the Company to perform her obligations hereunder. Employee shall perform Employee's duties in a diligent, effective and loyal manner. Under no circumstances shall Employee take any action contrary to the best interests of the Company or its parent, Manning & Napier Information Systems, L.L.C. ("MNIS"). Notwithstanding the foregoing, Employee may continue to perform services for Syracuse University or any other educational institution, and nothing contained in this Agreement shall be construed so as to limit her ability to do so; provided that none of the services performed by her shall inure to the benefit of any competitor or potential competitor of the Company or MNIS by providing it with technology or products which are competitive with technology or products which Employee knows or should know have been, are being or are being contemplated to be

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developed or marketed by the Company or MNIS, at the time such services are commenced. Employee shall disclose each development activity, research grant and other similar activity in which she proposes to engage on behalf of Syracuse University or any other educational institution during the term of this Agreement to Employer not less than ten (10) business days before the earlier of beginning to engaging in such activity or entering into any commitment to do so. Employee shall not engage in any other business activity, whether as an employee, officer, director, shareholder, partner, consultant or for her own account, without the prior approval of the Company's Members; provided, however, that Employee may make passive investments representing an ownership interest of less than ten percent (10%) in (xx) any company (including an open-ended investment company) which has a market capitalization of not less than One Billion Dollars or (yy) any other company, provided that in the case of any such other company which is or could be deemed to be in competition with the Company or MNIS, such investments such investments shall be made only with the prior written consent of Manning & Napier Associates, L.L.C. ("Associates"), which consent shall not be unreasonably withheld or delayed. All of employee's current activities and obligations, including those on behalf of Syracuse University, are set forth on Schedule 2(b) and are deemed approved. Employee shall not be required to render any substantial portion of her duties at any location other than in Syracuse, New York.

3. Compensation. Employee shall be compensated by the Company for all services to be rendered by her pursuant to this Agreement, as follows:

(a) The Company shall pay Employee a base salary at the rate of not less than Eighty-Five Thousand Dollars (\$85,000.00) per year (the "Base Salary"). The Base Salary shall be paid in accordance with the normal payroll practices of the Company, but not less frequently than bi-weekly. The Company shall review the Base Salary at least annually. In the event Employee shall render services to TextWise Corp. ("TextWise"), one of the Owners of the Company, the compensation (salary and bonus) payable to Employee by the Company shall be reduced by the amount of all compensation (including salary, bonus and benefits) paid to Employee by TextWise, such reduction to be deducted from the salary or other payment or payments due Employee next succeeding the receipt by her of such compensation from TextWise.

(b) The Company shall also pay Employee an annual bonus such that the total annual bonuses payable with respect to any fiscal year to Employee and other

key employees of the Company who are engaged in performing Approved Activities (as hereinafter defined) (the identities of such other employees and the amounts of the bonuses payable to them to be determined by the Members of the Company, after consultation with Employee) shall equal ten percent (10%) of the net profit before interest and taxes earned by the Company from "Approved Activities", which shall mean (i) research and development activities performed by TextWise LLC for agencies of the United States government (provided that such activities were approved in writing, in advance, by Associates), and (ii) research and development activities performed by TextWise LLC for other parties (provided that such parties were approved in writing, in advance, by Associates) (it being understood that Associates may withhold its approval of such activities or parties for any reason or for no reason, in its sole discretion). The net profit earned by the Company shall be determined based upon the cost of rendering such services as determined by the accountants regularly serving the Company, and otherwise in accordance with generally accepted accounting principles consistently applied.

4. Benefits. Employee shall be entitled to receive the following benefits:

(a) Three (3) weeks of paid vacation per year of this Agreement or such greater period as may be approved from time to time by the Company's Members.

(b) Paid holidays as customarily provided to the Company's other executive employees.

(c) Such life insurance as the Company may determine; provided that the Company shall be the owner of any such policy and shall be entitled to all benefits thereunder, except for any amount paid as a death benefit, which amount shall be payable to any beneficiary designated by Employee. In the event of any termination of Employee, Employee shall be entitled to purchase such insurance policy upon payment to the Company of the cash surrender value of such policy, if any.

(d) Such group health insurance, including medical and/or dental coverage, as may be provided by the Company to its other executive employees.

(e) Long term disability insurance coverage, at the same percentage of her salary as may be provided by the Company to its other executive employees.

(f) Participation in accordance with their terms of any pension, profit-sharing or retirement plans now existing or hereafter established by the Company and made generally available for its executive employees.

(g) Participation in accordance with their terms in such other employee benefit plans now existing or hereafter established by the Company and made generally available for its executive employees

(h) Reimbursement for all reasonable expenses incurred by Employee during the term of this Agreement for advancing the Company's business in accordance with Company policies upon Employee's presentation, from time to time, of an itemized account and evidence and explanation reasonably satisfactory to the Company of such expenses.

Subject to the financial condition and performance of the Company, it is intended that the benefits provided to Employee shall be comparable to the benefits provided to executive employees of MNIS performing functions similar to those performed by Employee.

Employee's eligibility for any benefit provided herein shall be subject to Employee's compliance with the reasonable requests of, and to Employee's meeting on an unrated basis the underwriting criteria used by, any insurance company providing any of the benefits specified herein to the Company's employees. Employee agrees to submit to any medical examination and to provide and complete any documentation (including medical records) required by any such insurance company. All benefits provided for hereunder are taxable to Employee to the extent required by applicable tax laws.

5. Term of Employment. Employee shall be an "at will" employee of the Company, and her employment may be terminated by the Members of the Company effective upon the giving of notice, with or without cause. In the event of such termination, the Company shall continue to pay Employee the same salary and provide Employee with the same benefits as Employee was receiving on the date of termination, for a period of six (6) months following the effective date of such termination; provided, however, that (a) Employee shall be entitled to receive only such bonuses as were actually earned prior to the effective date of such termination; (b) if Employee's employment with the Company is terminated because Employee becomes disabled, and such disability, physical or mental, renders her unable to render full-time services to the Company as required pursuant to this Agreement, the amount which the Company shall be obligated to pay Employee shall be reduced by the amount of any benefits Employee is entitled to receive during such six (6) month period under any policy of disability insurance procured and paid for by the Company;

and (c) such salary and benefits shall terminate upon the effective date of such termination if such termination occurs as a result of any of the following events:

- (i) If Employee engages in willful misconduct with respect to the Company, or willfully and repeatedly neglects her duties to the Company; or
- (ii) If Employee engages in intentional dishonesty or steals any of the Company's property (including but not limited to intellectual property); or
- (iii) Employee's death.

6. Non-Disclosure; Non-Competition

(a) Proprietary Information. Employee will not, during the period of Employee's employment with the Company or at any time thereafter, regardless of the reason for the cessation of Employee's employment: (i) use any Confidential Information for Employee's own benefit or for the benefit of any person or entity other than the Company; (ii) disclose to any person or entity any Confidential Information; or (iii) remove from the Company's premises or make copies of any Confidential Information, in any form; except, in each case, as may be required within the scope of Employee's duties during Employee's employment by the Company.

Upon termination of Employee's employment, or at any such time as the Company may request, Employee will deliver to the Company all copies in Employee's possession of any Confidential Information, in any form. Employee will not at any time assert any rights as against the Company in or with respect to any Confidential Information.

For purposes of this Agreement, "Confidential Information" means any and all technical, research, operational, manufacturing, marketing, sales and financial information, customer lists and trade secrets of the Company or MNIS or any of their respective affiliates, or of any vendor, supplier, distributor or customer of the Company or MNIS, regardless of how acquired or developed by the Company, MNIS or any such vendor, supplier, distributor or customer, concerning any of their respective businesses. Confidential Information does not include information, knowledge or data which Employee can prove (i) (a) was received from a source other than the Company, MNIS, TextWise Company, Inc., Associates, Syracuse University, or any customer or supplier of any of them, and (b) was in Employee's possession prior to the commencement of Employee's employment with the Company, (ii) was deemed by the disclosing party not to be confidential

information when disclosed, or (iii) was or is in the public domain by reason other than the wrongful acts of Employee.

(b) Non-Competition. During the period of Employee's employment with the Company and for a period of three (3) years thereafter, Employee will not, directly or indirectly, on Employee's behalf or on behalf of any other person or entity, in any way, whether as an individual proprietor, partner, stockholder, officer, employee, consultant, director, joint venturer, investor, lender, or in any other capacity, compete with the business then done or which Employee is aware at the time she terminates her employment with the Company is intended to be done by the Company and MNIS, including the development of products which are competitive with those developed and licensed or sold by the Company, nor will she assist any third person to so compete. Employee acknowledges that her knowledge of the Company's products and technology is such that her employment by a competitor of the Company would inevitably result in the disclosure of the Company's Confidential Information, and that the covenant against competition contained in this paragraph is therefore reasonable. Nothing contained herein shall be construed as preventing Employee from making investments representing an ownership interest of less than ten percent (10%) in (xx) any company (including an open-ended investment company) which has a market capitalization of not less than One Billion Dollars or (yy) any other company, provided that in the case of any such other company which is or could be deemed to be in competition with the Company or MNIS, such investments such investments shall be made only with the prior written consent of Manning & Napier Associates, L.L.C. ("Associates"). In order to enable the Company and Associates to assure themselves that Employee has complied with the provisions of this paragraph, during the period set forth in the first sentence of this paragraph 7(b), Employee shall promptly notify the Company, MNIS and Associates after commencing to engage in any business activity, whether as a partner, owner, officer, director, consultant or otherwise.

If any restriction set forth in this paragraph is found by any court of competent jurisdiction to be unenforceable because it extends for too long a period of time or over too great a range of activities or in too broad a geographic area, it shall be interpreted to extend only over the maximum period of time, range of activities or geographic area as to which it may be enforceable, it being understood and agreed that by the execution

of this Agreement, the parties hereto regard the restrictions herein as reasonable and compatible with their respective rights.

(c) Developments. Employee agrees that all products, processes, know-how, inventions or devices, or any improvements to any of the foregoing whether patentable or not ("Inventions"), discovered or developed by Employee or other employees of the Company during the course of her employment with the Company which are (i) related to the business of the Company or MNIS (other than those inventions made during the course of her employment by Syracuse University or any other educational institution; so long as those inventions do not inure to the benefit of any competitor or potential competitor of the Company or MNIS by providing it with technology or products which are competitive with technology or products which Employee knows or should know have been, are being or are being contemplated to be developed or marketed by the Company or MNIS, at the time such services are commenced); or (ii) in the course of development by the Company (other than those inventions made during the course of her employment by Syracuse University or any other educational institution, so long as those inventions do not inure to the benefit of any competitor or potential competitor of the Company or MNIS by providing it with technology or products which are competitive with technology or products which Employee knows or should know have been, are being or are being contemplated to be developed or marketed by the Company or MNIS, at the time such services are commenced); or (iii) made with the use of the Company's time, materials, equipment or facilities, shall belong to the Company. Employee hereby assigns and transfers to the Company all right, title and interest to any and all such inventions. Employee agrees promptly to execute such instruments and assignments and to take all such other action, at the Company's expense, as may be necessary or desirable to vest title in such inventions to the Company or to obtain letters patent and copyrights for the benefit of the Company. The provisions of the two immediately preceding sentences shall not apply to any products, processes, know-how, inventions or devices, or any improvements to any of the foregoing, if they are (x) made solely by any student under Employee's supervision who has not, at any time (i) been paid by, or received any remuneration from, the Company or MNIS or (ii) used any of the Company's or MNIS' time, materials, equipment or facilities, and (y) Employee does not have or have any right to receive any economic interest in or benefit from such products, processes, know-how,



Inventions, devices or improvements. Employee agrees promptly to disclose to the Company all inventions of any nature made by Employee during the term of this Agreement.

(d) Injunctive Relief. In the event of a breach or threatened breach of any of the terms of this Agreement, the Company shall be entitled to an injunction restraining Employee from committing any breach of this Agreement without showing or proving any actual damages and without diminishing any other right or remedy which the Company may have at law or in equity to enforce the provisions of this Agreement. Employee shall reimburse the Company on demand for all costs and expenses, including reasonable attorneys' fees, incurred by the Company in successfully enforcing any of its rights under this paragraph 7(d). In the event that the Company seeks to enforce its rights under this paragraph 7(d) and is found by a court not to be entitled to such relief, Employee shall be entitled to recover from the Company her attorneys' fees and costs incurred in opposing such legal action.

7. General Terms.

(a) Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their personal representatives, and permitted successors and assigns.

(b) Assignment. This Agreement may not be assigned, in whole or in part, by any party hereto without the prior written consent of all other parties.

(c) Entire Agreement. This Agreement contains the entire understanding between or among the parties hereto and supersedes any prior understanding, memoranda or other written or oral agreements between or among any of them respecting the subject matter of this Agreement. There are no representations, agreements, arrangements or understandings, oral or written, between or among any of the parties relating to the subject matter of this Agreement which are not fully expressed herein or in the following documents: An Amended Operating Agreement of Employer; an Amended Operating Agreement of MNIS; an Owners Agreement among Associates, TextWise Company, Inc. ("TextWise") Employee and Michael L. Welner ("Weiner"); and a Supplemental Agreement among Employer, Employee, TextWise, Associates and Weiner, each of which is dated the same date as the date hereof. This Agreement supersedes in its entirety the Employment Agreement between Employee and TextWise Company, L.L.C. dated as of January 31, 1995, which is terminated effective on and as of the date hereof.

(d) Modifications: Waiver. No modification or waiver of this Agreement or any part hereof shall be effective unless in writing and signed by the party or parties sought to be charged therewith. No waiver of any breach or condition of this Agreement shall be deemed to be a waiver of any other or subsequent breach or condition, whether of like or different nature. No waiver of any breach or condition of this Agreement by or with respect to any party hereto shall be deemed to be a waiver of the same breach or condition with respect to any other party hereto. No course of dealing between or among any of the parties hereto will be deemed effective to modify, amend or discharge any part of this Agreement or the rights or obligations of any party hereunder.

(e) No Third Party Beneficiary. None of the provisions of this Agreement shall be for the benefit of, or enforceable by, any person or entity not a party hereto.

(f) Partial Invalidity. If any provision of this Agreement shall be held invalid or unenforceable by competent authority, such provision shall be construed so as to be limited or reduced to be enforceable to the maximum extent compatible with the law as it shall then appear. The total invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof and this Agreement shall be construed in all respects as if such invalid or unenforceable provision were omitted.

(g) Notices. Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been duly given (i) upon hand delivery, (ii) when telecopied or sent by facsimile transmission if, in either case, an additional notice is given within three (3) days by delivery to the U.S. Postal Service as certified or registered mail, return receipt requested and postage prepaid or (iii) on the first day following delivery to a nationally recognized United States overnight courier service, fee prepaid, return receipt or other confirmation of delivery requested, to the address as shown from time to time on the records of the Company. Any such notice or communication shall be delivered or directed to a party at its address set forth below or at such other address as may be designated by a party in a notice given to all other parties hereto in accordance with the provisions of this paragraph.

Notice to the Company  
shall be sent to:

TextWise Company, L.L.C.  
2-212 Center for Science and Technology  
Syracuse University

Syracuse, New York 13244

with a copy to: Devorsetz, Stenziano, Gilberti, Hertz & Smith, P.C.  
Bridgewater Place  
500 Plum Street, Suite 600  
Syracuse, New York 13204-1428  
Attn: Lynn H. Smith, Esq.

Notice to Employee shall be sent to: 2-212 Center for Science and Technology  
Syracuse University  
Syracuse, New York 13244

with a copy to: Devorsetz, Stenziano, Gilberti, Hertz & Smith, P.C.  
Bridgewater Place  
500 Plum Street, Suite 600  
Syracuse, New York 13204-1428  
Attn: Lynn H. Smith, Esq.

Copies of all notices shall be sent to: Manning & Napier Associates, L.L.C.  
1100 Chase Square  
Rochester, New York 14604  
Attn: William Manning  
B. Reuben Ausprz

and to: Underberg & Kassler LLP  
1800 Chase Square  
Rochester, New York 14604  
Attn: Robert F. Mechur, Esq.

and to: Harris, Beach & Wilcox  
130 East Main Street  
Rochester, New York 14604  
Attn: Patrick J. Dalton, Esq.

(h) Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of New York pertaining to contracts made and to be wholly performed within such state, without taking into account conflicts of laws principles.

(i) Jurisdiction and Venue. In the event that any legal proceedings are commenced in any court with respect to any matter arising under this Agreement, the parties hereto specifically consent and agree that:

(1) the courts of the State of New York and/or the United States Federal Courts located in the State of New York shall have exclusive

jurisdiction over each of the parties hereto and over the subject matter of any such proceedings; and

(ii) the venue of any such action shall be in Monroe County, New York, Onondaga County, New York and/or the United States District Court for the Western District of New York.

(j) Headings. The headings contained in this Agreement are inserted for convenience only and do not constitute a part of this Agreement.

(k) Fair Meaning. This Agreement shall be construed according to its fair meaning, the language used shall be deemed the language chosen by the parties hereto to express their mutual intent, and no presumption or rule of strict construction will be applied against any party hereto.

(l) Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all of said counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of December 31, 1996.

COMPANY:

TEXTWISE COMPANY, L.L.C.

By: M. L.

EMPLOYEE:

Elizabeth D. Liddy  
Elizabeth D. Liddy