

11-10-2004

RECORD

F



To the Director of the U.S. Patent and Trademark Office

102879232

or the new address(es) below.

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

Zhongliang Fan (aka Leon Fan)

Execution Date(s) 7/28/2000

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

3. Nature of conveyance:

- ☐ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Government Interest Assignment
☐ Executive Order 9424, Confirmatory License
☒ Other license (redacted)

2. Name and address of receiving party(ies)

Name: ACS Industries, LP

Internal Address:

Street Address: PO Box 500

191 Social St.

City: Woonsocket

State: Rhode Island

Country: USA

Zip: 02895

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

4. Application or patent number(s):

A. Patent Application No.(s)

09/245,587

☒ This document is being filed together with a new application.

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

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

Name: Bradley N. Ruben

Internal Address: Suite 5A

Street Address: 463 First St.

City: Hoboken

State: New Jersey Zip: 07030-1859

Phone Number: 201-239-0707

Fax Number: 201-239-0734

Email Address: mail@rubenpatent.com

6. Total number of applications and patents involved:

1

7. Total fee (37 CFR 1.21(h) & 3.41) \$ 40

- ☐ 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 502144

Authorized User Name Bradley N. Ruben

9. Signature:

Signature

4 Nov. 2004

Date

11/09/2004 DBYRNE 00000010 09245587

01 FC 0021

Bradley N. Ruben

Name of Person Signing

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

16

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, V.A. 22313-1450

PATENT
REEL: 015958 FRAME: 0883

LICENSE AGREEMENT

This AGREEMENT ("Agreement") is entered into as of July 28, 2000 by and between Zhongliang Fan (a/k/a Leon Fan) ("Licensor") and ACS Industries, LP, a Delaware limited partnership ("Licensee").

8/15/99 WHEREAS, the parties have entered into a certain Employment Agreement as of 1999 ("Employment Agreement") which provides for the entering into of the Agreement herein; and

WHEREAS, Licensor is the owner of U.S. patent application serial number 09/245, 587 entitled; "Gas-Liquid Contact Tray and Method" filed on or about February 8, 1999 and has proprietary technologies, know-how, and other intangible property rights in the field of mass transfer technology; and

WHEREAS, Licensee desires to obtain a license with respect to said patent application (and any patent which is expected to issue therefrom) and said proprietary technologies, know-how and other intangible property rights.

NOW THEREFORE, pursuant to the Employment Agreement and in consideration of the mutual promises of the parties, the parties agree as follows:

SECTION 1 CERTAIN DEFINED TERMS

For purposes of this Agreement:

Affiliate. "Affiliate" shall mean (i) any company owned or controlled to the extent of at least fifty percent (50%) of its issued and voting capital by a party to this Agreement and any other company so owned or controlled (directly or indirectly) by any such company or the owner of any such company, or (ii) any partnership, joint venture or other entity directly or indirectly controlled by, controlling, or under common control of, to the extent of fifty percent (50%) or more of voting power (or otherwise having power to control its general activities), a party to this Agreement, but in each case only for so long as such ownership or control shall continue.

Exclusive Territory. "Exclusive Territory" shall have the same meaning as ascribed thereto in Section 2.1

Improvements. "Improvements" shall include all inventions, discoveries, techniques, systems, methods, processes, improvements, developments, enhancements, and modifications (whether or not patentable, commercially useful, or reducible to writing or practice) that Licensor may hereafter, either solely or jointly with others, acquire, discover,

invent, originate, make, develop, conceive or have rights to, in whole or in part, including, without limitation,

- (a.) any such invention or other item the practice of which would fall within the scope of a claim of any Patent Right, any Know-How, any of the Other Rights, or any Product; and
- (b.) any such invention or other item which may be competitive with operations or applications within the scope of any claim of any Patent Right, any Know-How, any of the Other Rights, or any Product.

Indemnitees. The "Indemnitees" shall include (i) Licensor; (ii) Affiliates; (iii) each past, present, or future officer, director, employee, agent, or representative of Licensor or any of any Affiliates (other than Licensee); and (iv) the respective heirs, successors and assigns of the foregoing.

Know-How. "Know-How" shall mean all confidential, technical, or proprietary information and knowledge not generally known to the public (including, without limitation, information and knowledge regarding inventions, discoveries, techniques, systems, methods and processes of any type, technical data, drawings, designs, manufacturing and design information, computer programs, and other information), whether or not patentable and whether or not in written form, that Licensor owns or possesses and that relates directly or indirectly to (i) any Patent Right or any product, process, design or other matter covered by any Patent Right; or (ii) the design, development, manufacture, testing, use, or sale of any Product.

Legal Proceeding. "Legal Proceeding" shall mean any action, suit, litigation, arbitration proceeding, or other proceeding of any nature (including any civil, criminal, administrative, or appellate proceeding).

Licensee. "Licensee" shall mean ACS Industries, LP, a Delaware limited partnership, or any successor thereto or assign thereof.

Licensor. "Licensor" shall mean Zhongliang Fan.

Net Sales. The "Net Sales" for a particular period shall be the amount of the gross sales of Products to customers as recorded by Licensee for such period (excluding, from sales by Licensee or by any Affiliate, any sales of Products made by Licensee or by any Affiliate to any Affiliate for subsequent resale), less (i) shipping and transport expenses, insurance and delivery costs and duties and taxes (to the extent that any of such items is reflected on the invoice for any of such Products or is otherwise charged to any customer); (ii) discounts and allowances actually given for volume purchases, advertising, trade promotion, or other accommodations; and (iii) allowances for returns or defective merchandise.

Nonexclusive Territory. "Nonexclusive Territory" shall have the same meaning as

Nonexclusive Territory Claim or Legal Proceeding. "Nonexclusive Territory Claim or Legal Proceeding" means any claim or Legal Proceeding, with respect to Licensee's use of the Rights in the Nonexclusive Territory or the manufacture, use or sale by Licensee of any Product in the Nonexclusive Territory, but excluding claims or Legal Proceedings arising from any allegation that any Patent Right is invalid or unenforceable.

Other Rights. The "Other Rights" shall include (i) any other Proprietary Right that is owned by Licensor as of the date of this Agreement (other than the Patent Rights and the Know-How) and that relates directly or indirectly to any Patent Right, any Know-How, or any Product; (ii) any Proprietary Right that is developed or acquired by Licensor on or after the date of this Agreement (other than any such right that becomes part of the Patent Rights, the Know-How, or the Improvements) and that relates directly or indirectly to any Patent Right, any Know-How, any of the Improvements, or any Product; and (iii) all goodwill of Licensor relating directly or indirectly to the foregoing.

Patent Rights. The "Patent Rights" shall include (i) U.S. patent application serial number 09/245,587 entitled, "Gas-Liquid Contact Tray and Method" which as stated therein claims the benefits of U.S. Provisional Application No. 60/100,991 filed on or about September 18, 1998, (ii) any and all other patent applications and patents filed with or issued by any country in North America, South America, and Europe that is owned by Licensor as of the date of this Agreement and that relates directly or indirectly to any Know-How, any Product or the design, development, manufacture, testing, or use of any Product, and (iii) any and all patent applications and patents that are filed or acquired by Licensor on or after the date of this Agreement (whether in accordance with Section 5.3 of this Agreement or otherwise) but before the expiration of the Royalty Period and that relates directly or indirectly to any Know-How, any of the Improvements, any Product, or the design, development, manufacture, testing, or use of any Product.

Person. "Person" shall mean any individual, corporation, partnership, venture, estate, trust, association, entity, governmental body, or governmental authority.

Prime Rate. "Prime Rate" shall mean the rate of interest publicly announced by Fleet Bank in Boston, Massachusetts from time to time as its prime, base, or reference rate.

Products. "Products" shall mean any products that (i) are encompassed by the claims of the Patent Rights or by the claims of any Know-How or Improvements related to such patents; or (ii) otherwise relate to the teachings encompassed within the scope of the Patent Rights, the Know-How, or any Improvements (regardless of whether such methods or products are currently in existence or are developed hereafter).

Proprietary Right. "Proprietary Right" shall mean any patent application, patent, trademark, trade name, service mark, trade secret, copyright, or other proprietary right.

Rights. "Rights" shall mean the Patent Rights, the Know-How, the Other Rights and the

Improvements.

Royalty Period. The "Royalty Period" shall be the period beginning on August 15, 1999 and ending on the later of (i) last to expire of the Patent Rights or (ii) the twentieth (20th) anniversary hereof.

Royalty Rate. The "Royalty Rate" for any calendar month shall be :

SECTION 2 LICENSE

2.1 Grant of License - Exclusive. Licensor hereby grants to Licensee the exclusive right and license to practice, use and sublicense the Rights, including, without limitation, the right to manufacture, use, lease, import, and sell Products, in any and all applications in North America, South America, and Europe ("Exclusive Territory"). The foregoing Grant of License is an exclusive license, and Licensor accordingly shall have no right (i) to practice or use or to license others to practice or use any of the Rights for any purpose in the Exclusive Territory; or (ii) to manufacture, have manufactured, use, lease or sell any Product in the Exclusive Territory.

2.2 Grant of License - Nonexclusive. Licensor hereby grants to Licensee the nonexclusive right and license to practice and use the Rights, including, without limitation, the right to manufacture, use, lease, import, and sell Products, in any and all applications in the world outside the Exclusive Territory ("Nonexclusive Territory").

SECTION 3 ROYALTIES

3.1 Monthly Royalty Payments. Within thirty (30) days after the end of each calendar month during the Royalty Period, Licensee shall pay to Licensor (subject to the provisions of Sections 3.3 and 6 of this Agreement) in U.S. Dollars a running royalty in an amount determined by multiplying (i) the Royalty Rate by (ii) the amount of the Net Sales of Products for such calendar month, as determined in accordance with the books and records of Licensee.

3.2 Reports. Within thirty (30) days after the end of each calendar month during the Royalty Period, Licensee shall deliver to Licensor a statement setting forth Licensee's determination of the Net Sales for such calendar year and Licensee's determination of the amount of royalties payable to Licensor for such calendar month. Monthly amounts reported hereunder shall be subject to adjustment at year end to reflect adjustments made to Licensee's audited financial statements.

3.3 Effect of Default by Licensor. If (a) any of the representations and warranties of Licensor contained in Section 7 of this Agreement are false, misleading, or inaccurate in any material respect or are otherwise breached in any material respect by Licensor, or

Licensors is in default in any material respect in the performance of, or otherwise commits a material breach of, any provision of Section 5 or Section 6 of this Agreement; and (b) Licensee delivers to Licensors a written notice of such inaccuracy, default or breach, then (without limiting or otherwise affecting any of the obligations of Licensors under this Agreement or any of the rights or remedies otherwise available to Licensee) Licensee's obligation to make royalty payments under this Agreement shall be suspended (as described in Section 10 of this Agreement) until such inaccuracy, default or breach has been cured by Licensors in all respects.

SECTION 4 TERM

4.1 Generally. This Agreement shall remain in effect in accordance with its terms, and Licensors shall have no right to terminate this Agreement except as provided in Section 4.2. Without limiting the generality of the foregoing:

- (a.) this Agreement and all obligations of Licensors hereunder shall remain in full force and effect following the expiration of the Royalty Period (it being acknowledged and understood that, upon the expiration of the Royalty Period, the license granted pursuant to this Agreement will be deemed to be a fully paid-up license of the Patent Rights, the Know-How, the Other Rights and the Improvements);
- (b.) this Agreement and all obligations of Licensors hereunder shall remain in full force and effect following any merger of Licensee with or into another entity and following any transfer of all or any portion of the outstanding stock or of all or any portion of the assets of Licensee;
- (c.) this Agreement and all obligations of Licensors hereunder shall remain in full force and effect until such time as Licensee ceases before the expiration of the Royalty Period to manufacture or sell Products.

4.2 Breach. A failure on the part of Licensee to make any payment due under Section 3 of this Agreement (unless such failure is a result of payments which are properly suspended under the provisions of this Agreement) or to perform any obligation under this Agreement which such failure amounts to a breach of this Agreement shall permit Licensors to terminate this Agreement after first notifying Licensee in writing of such failure and giving Licensee at least sixty (60) days in which cure any failure or default.

SECTION 5 ADDITIONAL OBLIGATIONS OF THE PARTIES

5.1 Know-How and Improvements.

corr
disc
orig
Imp
con:

tely
ed,
h
al

5.2 Technical Assistance.

L
E
h
F
th
o.

le
d

t

5.3 Further Patent Applications, etc.

c
a
f
F
S
a
tc

in
ns
at
is
re
as

5.4 Confidentiality.

info
by
or
Pr
or
o

al all
d
e
of
ial
ns

**SECTION 6
CLAIMS AND LEGAL PROCEEDINGS**

6.1 Certain Claims Against Licensor With Respect to Exclusive Territory.

c
t
i
b

t
g
e
it

or
ap
Lic
cla
Lic
or
of
suc

W
iny
m
in
to
Se
cc
Pr

it
n
h
o
n
e
y

n

n
al

h

y
y
r,

n
s,
al

er
e
y
e
m
s,
al

ig
le
is
in
or
al
to

Lic
be

ve

6.2 ***Certain Claims Against Licensor With Respect to the Nonexclusive Territory.***

If
Lic
as
in
m

st
e
ll
r

h

n
e

h
of

y
d
y
ly
)
y
r.

h
of
e
d
e
d

ly
e
o
of
h
s
e)

V
b
n
o
s
N
re
a

6.3
any
res
Pro
6.1

Certain Claims Against Licensee With Respect to the Exclusive Territory.

If
th
al
on

on
ig

m
ie

ty
ty
or

al
er
g)

er
ie
er
le
ty
ts
ie

ig
le
ty
all
ig
in

Wit
inv
of
Per
be
upc
suc

6.4 Certain Claims Against Licensee with Respect to the Nonexclusive Territory.

If
Li

1st
ty

al
th

t,
h

n
e

h
if

y
d
y
y
)
y
/-

h
of
e
d
e
d

ly
e
o
of
h
is
or

W
be
ro
of
su
No
re
ot

6.5 *Infringement of Rights by Third Parties.* {

of
E
pr
L
c
rec
suc

are
and
and
me
a off

operate

in
th
re
of
ul
o'

r,
le
d
or
i)

SECTION 7
REPRESENTATIONS AND WARRANTIES

Licensor hereby represents and warrants, as of the date hereof as follows:

7.1 **Ownership of Rights.** L

p
fr
cl
u
th
R
P
in
al
tc

s
s,
or
d
y
or
d
e

7.2 **No Infringement.** To t

n
P
P
th
a
P
o
th

(i)
ny
ny
(ii)
iat
ny
or
(iii)

7.3 **Patent Rights.** N

re
(e
Ti
P
pi

ce,
e
g.
ie
ig

7.4 **Binding Nature of Agreement.** This A

h
a
a

isor
and
and

**SECTION 8
INDEMNIFICATION BY LICENSEE**

Li
da
fir
di
In
di

s,
s,
re
sh
ie

ly
ly
s

r
t

**SECTION 9
INDEMNIFICATION BY LICENSOR**

Li
da
fir
di
of
in

s,
s,
re
ay
or

ly
ly

in

st
id

**SECTION 10
SUSPENSION OF ROYALTY OBLIGATION**

**SECTION 11
MISCELLANEOUS PROVISIONS**

11.1 Governing Law. This Agreement shall be governed by

11.2 Assignment.

(a.) Li
of
of
inl
Ri
un
as
sh

(b.) Li
all

11.3 Severability. In the event that any provision of this Agreement, or the application

11.4 **Entire Agreement.** Th
pa. 1
agreed..... 5
of th

the
rior
ter

11.5 **Waiver.** N
privilege of
any
the

nt,
ing
ise

11.6 **Additional Documents and Actions.** Lic
ca
(in
Pe
tal
ap
co
pu

, or
ts
S.
to
or
ie
ie

11.7 **Facsimile.** TI
se
tr
a

re
re

IN WITNESS WHEREOF, Licensor and Licensee have caused this Agreement to be executed as of the date first above written.

LICENSOR:

By: Zhongliang Fan
Zhongliang Fan (a/k/a Leon Fan)

LICENSEE:

ACS INDUSTRIES, LP

By: ACS INDUSTRIES, INC.

Title: General Partner

By: [Signature]
Title: Vice-President - General Manager

D:\LEGAL\AGREEMENT\LICENSE\FANSRVSDS1000.DOC
5/16/00