

Form PTO-1595

(Rev. 03/01)

OMB No. 0651-0027 (exp. 5/31/2002)

# **RECORDATION FORM COVER SHEET PATENTS ONLY**

U.S. DEPARTMENT OF

COMMERCE

U.S. Patent and Trademark Office

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

## 1. Name of conveying party(ies):

**Genalytics, Inc.****95 Parker Street****Newburyport, Massachusetts 01950**

Additional name(s) of conveying party(ies) attached?

☐ Yes ☒ No

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

Name: **Egan-Managed Capital II, L.P.**

Internal

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

Street Address: **30 Federal Street**City: **Boston** State: **MA** Zip: **02110**Additional name(s) & address(es) attached? ☐ Yes ☒ No

## 3. Nature of conveyance:

☐ Assignment☐ Merger☐ Security Agreement☐ Change of Name☒ Other **Third Amendment to Intellectual Property****Security Agreement under Reel/Frame: 015244/0646**Execution Date: **September 23, 2005**

## 4. Application number(s) or registration 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)

**09/863175**

B. Patent No.(s)

Additional number(s) attached ☐ Yes ☒ No

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

Name: **Michael A. Diener**Internal Address: **Wilmer Cutler Pickering Hale and Dorr LLP**Street Address: **60 State Street**City: **Boston** State: **Massachusetts** Zip: **02109**6. Total number of applications and patents involved:  
**ONE (1)**7. Total fee (37 CFR 3.41).....\$ **40.00**☐ Enclosed☒ Authorized to be charged to deposit account

## 8. Deposit account number:

**08-0219**

(Attach duplicate copy of this page if paying by deposit account)

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.***Michael A. Diener**

Name of Person Signing

Signature

Date

Wilmer Cutler Pickering Hale and Dorr LLP Attorney Reference Number: **107.858.133**Total number of pages including cover sheet, attachments, and document: **13**

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent &amp; Trademarks, Box Assignments, Washington, D.C. 20231

**Execution Version**

**THIRD AMENDMENT TO  
INTELLECTUAL PROPERTY SECURITY AGREEMENT**

This Third Amendment to the Intellectual Property Security Agreement (the "Amendment") is made this 23<sup>rd</sup> day of September, 2005, between Genalytics, Inc., a Delaware corporation, having its principal place of business at 95 Parker Street, Newburyport, Massachusetts 01950 (the "Debtor") and Egan-Managed Capital II, L.P., a Delaware limited partnership, having its main office at 30 Federal Street, Boston, Massachusetts 02110 (the "Secured Party"). This Third Amendment amends the Intellectual Property Security Agreement dated as of October 13, 2004, between the Debtor and the Secured Party (as previously amended by an amendment dated January 12, 2005, and a Second Amendment dated March 9, 2005, and as may be further amended, the "IP Security Agreement").

1. The term "Obligations" as used in the IP Security Agreement shall refer to the Obligations defined in the Security Agreement dated as of October 13, 2004, between the Debtor and the Secured Party, as amended by the First Amendment to Security Agreement dated as of January 12, 2005, between the Debtor and the Secured Party, as further amended by the Second Amendment to Security Agreement dated as of March 9, 2005, between the Debtor and the Secured Party, and as further amended by the Third Amendment to Security Agreement dated as of the date hereof between the Debtor and the Secured Party.
2. All other terms and provisions of the IP Security Agreement shall remain in full force and effect. The Debtor reaffirms as of the date hereof all representations, warranties, covenants, and other agreements and obligations made in the IP Security Agreement.
3. This Amendment shall become a part of the IP Security Agreement for all purposes from and after the date hereof.

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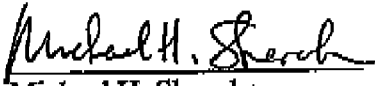
**Execution Version**

IN WITNESS WHEREOF, each of the parties have caused this Third Amendment to Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

**GENALYTICS, INC.**

By:   
Name: Raymond R. Kingman Jr.  
Title: Chief Executive Officer  
Duly Authorized

**EGAN-MANAGED CAPITAL II, L.P.**  
by EMC Partners II, L.P.,  
its General Partner

By:   
Name: Michael H. Shanahan  
Title: General Partner  
Duly Authorized

Execution Version

**SECOND AMENDMENT TO  
INTELLECTUAL PROPERTY SECURITY AGREEMENT**

This Second Amendment to the Intellectual Property Security Agreement (the "Amendment") is made this 9<sup>th</sup> day of March, 2005, between Genalytics, Inc., a Delaware corporation, having its principal place of business at 95 Parker Street, Newburyport, Massachusetts 01950 (the "Debtor") and Egan-Managed Capital II, L.P., a Delaware limited partnership, having its main office at 30 Federal Street, Boston, Massachusetts 02110 (the "Secured Party"). This Amendment amends the Intellectual Property Security Agreement dated as of October 13, 2004, between the Debtor and the Secured Party, as amended by an amendment dated January 12, 2005 (as amended, the "IP Security Agreement").

1. The term "Obligations" as used in the IP Security Agreement shall refer to the Obligations defined in the Security Agreement dated as of October 13, 2004, between the Debtor and the Secured Party, as amended by the First Amendment to Security Agreement dated as of January 12, 2005, between the Debtor and the Secured Party, and as further amended by the Second Amendment to Security Agreement dated as of the date hereof between the Debtor and the Secured Party.
2. All other terms and provisions of the IP Security Agreement shall remain in full force and effect. The Debtor reaffirms as of the date hereof all representations, warranties, covenants, and other agreements and obligations made in the IP Security Agreement.
3. This Amendment shall become a part of the IP Security Agreement for all purposes from and after the date hereof.

[The remainder of this page is intentionally left blank. Signature page follows.]

## Execution Version

IN WITNESS WHEREOF, each of the parties have caused this Second Amendment to Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GENALYTICS, INC.

By: 

Name: Raymond R. Kingman Jr.

Title: Chief Executive Officer  
Duly Authorized

EGAN-MANAGED CAPITAL II, L.P.  
by EMC Partners II, L.P.,  
its General Partner

By: 

Name: Michael H. Shanahan

Title: General Partner  
Duly Authorized

**FIRST AMENDMENT TO  
INTELLECTUAL PROPERTY SECURITY AGREEMENT**

This First Amendment to the Intellectual Property Security Agreement (the "Amendment") is made this 12th day of January, 2005, between Genalytics, Inc., a Delaware corporation, having its principal place of business at 95 Parker Street, Newburyport, Massachusetts 01950 (the "Debtor") and Egan-Managed Capital II, L.P., a Delaware limited partnership, having its main office at 30 Federal Street, Boston, Massachusetts 02110 (the "Secured Party"). This Amendment amends the Intellectual Property Security Agreement dated as of October 13, 2004, between the Debtor and the Secured Party (the "IP Security Agreement").

1. The term "Obligations" as used in the IP Security Agreement shall refer to the Obligations defined in the Security Agreement dated as of October 13, 2004, between the Debtor and the Secured Party, as amended by the First Amendment to Security Agreement dated as of January 12, 2005, between the Debtor and the Secured Party.
2. All other terms and provisions of the IP Security Agreement shall remain in full force and effect. The Debtor reaffirms as of the date hereof all representations, warranties, covenants, and other agreements and obligations made in the IP Security Agreement.
3. This Amendment shall become a part of the IP Security Agreement for all purposes from and after the date hereof.

[The remainder of this page is intentionally left blank. Signature page follows.]

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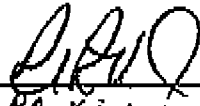
To: 16176952699

P: 5/13

IN WITNESS WHEREOF, the parties have caused this First Amendment to Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GENALYTICS, INC.  
95 Parker Street  
Newburyport, MA 01950

EGAN-MANAGED CAPITAL II, L.P.  
by EMC Partners II, L.P.,  
its General Partner

By:   
Name: Ray K. Chapman  
Title: Chief Executive Officer  
Duly Authorized

By:   
Name: Michael H. Shanahan  
Title: General Partner  
Duly Authorized

## INTELLECTUAL PROPERTY SECURITY AGREEMENT

This is an Intellectual Property Security Agreement made this 13th day of October, 2004 (the "Agreement") between Genalytics, Inc., a Delaware corporation, having its principal place of business at 95 Parker Street, Newburyport, Massachusetts 01950 (the "Debtor") and Egan-Managed Capital II, L.P., a Delaware limited partnership, having its main office at 30 Federal Street, Boston, Massachusetts 02110 (the "Secured Party").

### RECITALS

A. Secured Party has agreed to make certain advances of money and to extend certain financial accommodations to Debtor (the "Loans") in the amounts and manner set forth in that certain Security Agreement between Secured Party and Debtor dated of even date herewith (as the same may be amended, modified or supplemented from time to time, the "Security Agreement") and that certain Demand Note issued by Debtor to Secured Party commencing on the date hereof (the "Note"). Secured Party is willing to make the Loans to Debtor, but only upon the condition, among others, that Debtor shall grant to Secured Party a security interest in, among other things, certain copyrights, trademarks and patents to secure the obligations of Debtor under the Security Agreement and the Note. Capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Security Agreement.

B. Pursuant to the terms of the Security Agreement, Debtor has granted to Secured Party a security interest in all of Debtor's right, title and interest, whether presently existing or hereafter acquired, in, to and under all of the Collateral, including without limitation the Intellectual Property Collateral (defined below).

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound, as collateral security for the prompt and complete payment when due of its obligations under the Security Agreement, Debtor hereby represents, warrants, covenants and agrees as follows:

### AGREEMENT

1. To secure the Obligations, Debtor hereby grants and pledges to the Secured Party, and hereby confirms the grant and pledge to Secured Party in the Security Agreement of, a security interest in all of Debtor's right, title and interest in, to and under its now owned or hereafter acquired intellectual property, including without limitation all items listed on Schedule A and Schedule B hereto, together with all goodwill of the business symbolized by the trademarks, the right to sue for past, present and future infringements, all rights corresponding thereto throughout the world and all re-issues, divisions continuations, renewals, extensions and continuations-in-part thereof, and all proceeds of each of the foregoing (including, without limitation, all license royalties and proceeds of infringement suits) (collectively the "Intellectual Property Collateral").

2. This security interest is granted in conjunction with the security interest granted to Secured Party under the Security Agreement. The rights and remedies of Secured Party with respect to the security interest granted hereby are in addition to those set forth in the Security Agreement and the Note, and those which are now or hereafter available to Secured Party as a



matter of law or equity. Each right, power and remedy of Secured Party provided herein or in the Security Agreement or any related documents, or now or hereafter existing at law or in equity shall be cumulative and concurrent and shall be in addition to every right, power or remedy provided for herein and the exercise by Secured Party of any one or more of the rights, powers or remedies provided for in this Agreement, the Security Agreement, the Note, or any of related documents, or now or hereafter existing at law or in equity, shall not preclude the simultaneous or later exercise by any person, including Secured Party, of any or all other rights, powers or remedies.

[The remainder of this page is intentionally left blank. Signature page follows.]

IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GENALYTICS, INC.  
95 Parker Street  
Newburyport, MA 01950

EGAN-MANAGED CAPITAL II, L.P.  
by EMC Partners II, L.P.,  
its General Partner

By: 

Name: RAYMOND R. KINGHAN JR.

Title: CEO

Duly Authorized

By: \_\_\_\_\_

Name: Michael H. Shanahan

Title: General Partner

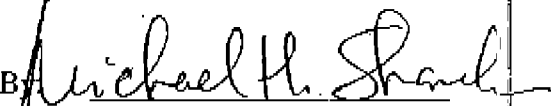
Duly Authorized

IN WITNESS WHEREOF, the parties have caused this Intellectual Property Security Agreement to be duly executed by its officers thereunto duly authorized as of the first date written above.

GENALYTICS, INC.  
95 Parker Street  
Newburyport, MA 01950

EGAN-MANAGED CAPITAL II, L.P.  
by EMC Partners II, L.P.,  
its General Partner

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Duly Authorized

By:   
Name: Michael H. Shanahan  
Title: General Partner  
Duly Authorized

**SCHEDULE "A" TO THE INTELLECTUAL PROPERTY SECURITY AGREEMENT**  
**INTELLECTUAL PROPERTY COLLATERAL**

The Intellectual Property Collateral shall include, without limitation all of the following, whether now owned or hereafter acquired by the Debtor:

- (a) any and all copyrights, copyright rights, copyright applications, copyright registrations and like protections in each work or authorship and deviation work thereof, whether published or unpublished and whether or not the same also constitutes a trade secret, now or hereafter existing, created, acquired or held;
- (b) any and all patents, patent applications and like protections including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions and continuations-in-part of the same ("the Patents");
- (c) any and all trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with or symbolized by such trademarks;
- (d) any and all trade secrets, and any and all intellectual property rights in computer software and computer software products now or hereafter existing, created, acquired or held;
- (e) any and all design rights which may be available to Borrower now or hereafter existing, created, acquired or held;
- (f) any and all claims for damages by any of past, present and future infringement of any of the rights included above, with the right, but not the obligation, to sue for or collect such damages for said use or infringement of the intellectual property rights identified above;
- (g) all licenses or other rights to use any of the intellectual property rights identified above, and all license fees and royalties arising from such use to the extent permitted by such license or rights;
- (h) all amendments, renewals and extensions of any of the intellectual property rights identified above; and
- (i) all proceeds and products of the foregoing, including, without limitation, all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

**SCHEDULE "B" TO THE INTELLECTUAL PROPERTY SECURITY AGREEMENT**  
**Debtor's Trademarks, Trademark Applications, Tradenames, Patents, Patent**  
**Applications, Copyrights, and Copyright Applications**

**GENALYTICS**  
**PATENT APPLICATION ASSETS**

Country	Appln. No.	Filing Date	Status
Canada	2,436,352	December 13, 2001	Pending
EPC	01994183.0	December 13, 2001	Pending
India	01083/DELNP	July 10, 2003	Pending
Japan	2002-561698	July 22, 2003	Pending
United States	09/863,175	May 23, 2001	Published

**GENALYTICS**  
**TRADEMARK ASSETS**

Country	Mark	Registration No. Issue Date	Comments
United States	GENALYTICS	2,491,775 September 25, 2001	Affidavit of Use due September 25, 2007
United States	GENALYTICS	2,640,264 October 22, 2002	Affidavit of Use due October 22, 2008