

KYPH-006/00US

Form PTO-1595

(Rev. 10/02)

OMB No. 0651-0027 (exp. 6/30/2005)

**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 parties:

**Avram Allan EDIDIN; Arthur E. FERDINAND;
Cesar A. ICO; and Aaron D. MARKWORTH**

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

3. Nature of conveyance:

☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Other ()

Execution Date: **September 13, 2005, September 1, 2005,
September 1, 2005 and September 16, 2005, respectively**

2. Name and address of receiving party(ies)

Name: **Kyphon Inc.**

Internal Address:

Street Address: **1221 Crossman Avenue**City: **Sunnyvale** State: **California** Zip: **94089**Additional name(s) & address(es) attached? No ☒ Yes ☐

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)

11/131,345

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

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

Name: **Cooley Godward LLP**Internal Address: **Patent Group**

Street Address:

One Freedom Square**Reston Town Center****11951 Freedom Drive**City: **Reston** State: **VA** Zip: **20190-5656**

6. Total number of applications and patents involved: [1]

7. Total fee (37 CFR 3.41)..... **\$40.00**☐ Enclosed☒ Authorized to be charged to deposit account8. Deposit account number: **50-1283**

The Commissioner is hereby authorized to charge any appropriate fees under 37 CFR 3.41 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-1283. This paper is submitted in duplicate.

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.

Erik B. Milch, Reg. No. 42,887

Name of Person Signing



Signature

October 5, 2005

Date

Total number of pages including cover sheet, attachments, and documents: [5]

Mail documents to be recorded with required cover sheet information to:

Mail Stop Assignment Recordation Services, Director of the U.S. Patent and Trademark Office
P.O. Box 1450, Alexandria, VA 22313-1450

I hereby certify that this correspondence is being transmitted by facsimile addressed to Assignment Recordation Services, Facsimile Number 571-273-0140, at United States Patent and Trademark Office, Alexandria, VA 22313-1450 on October 5, 2005.

By: 

Anna J. O'Connor

PATENT**REEL: 016853 FRAME: 0086**

Rev. 6/14/2002

Attorney Docket No: KYPH-006/00US

PATENT

ASSIGNMENT
(Joint)

Avram Allan EDIDIN, residing at 1221 Crossman Ave., Sunnyvale, CA 94089; Arthur E. FERDINAND, residing at 5423 Century Park Way, San Jose, CA 95111; Cesar A. ICO, residing at 440 Paris Street, San Francisco, CA 94112; and Aaron D. MARKWORTH, residing at 275 Saddle River Road, Saddle Brook, NJ 07663 (each referred to as "Assignor") have made an invention(s) (the "Invention(s)") set forth in an application for patent of the United States, entitled **SELECTIVELY-EXPANDABLE BONE SCAFFOLD**, and which is a:

- (1) ☐ provisional application
 - (a) ☐ to be filed herewith; or
 - (b) ☐ bearing Application No. , and filed on ; or
- (2) ☒ non-provisional application
 - (a) ☐ to be filed herewith; or
 - (b) ☒ bearing Application No. 11/131,345, and filed on May 18, 2005.

WHEREAS, Kyphon Inc., a corporation duly organized under and pursuant to the laws of Delaware, and having its principal place of business at **1221 Crossman Avenue, Sunnyvale, California, 94089** (the "Assignee"), is desirous of acquiring the entire right, title, and interest in: the Invention(s); the application for patent identified in paragraph (1) or (2); the right to file applications for patent of the United States or other countries on the Invention(s); any application(s) for patent of the United States or other countries claiming priority to these application(s); any provisional or other right to recover damages, including royalties, for prior infringements of these applications; and any patent(s) of the United States or other countries that may be granted therefor or thereon.

NOW, THEREFORE, for good and sufficient consideration, the receipt of which is hereby acknowledged, and to the extent that the Assignor has not done so already via a prior agreement with the Assignee, or if the Assignor has already done so via a prior agreement with the Assignee then in confirmation of any obligation to do so in said prior agreement, the Assignor has sold, assigned, transferred, and set over, and by these presents does sell, assign, transfer, and set over, unto the Assignee, its successors, legal representatives, and assigns, the Assignor's entire right, title, and interest in:

- (a) the Invention(s);
- (b) the application for patent identified in paragraph (1) or (2);
- (c) the right to file applications for patent of the United States or other countries on the Invention(s), including all rights under the Paris Convention for the Protection of Industrial Property and under the Patent Cooperation Treaty;
- (d) any application(s) for patent of the United States or other countries claiming the Invention(s);

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(e) any application(s) for patent of the United States or other countries claiming priority to the application for patent identified in paragraph (1) or (2) or any application(s) for patent claiming the Invention(s), including any division(s), continuation(s), and continuation(s)-in-part; and

(f) any provisional or other right to recover damages, including royalties, for prior infringements of any application for patent identified in the proceeding paragraphs (b)-(e); and

(g) any patent(s) of the United States or other countries that may be granted for or on any application for patent identified in the preceding paragraphs (b) – (e), including any reissue(s) and extension(s) of said patent(s).

The above-granted rights, titles, and interests are to be held and enjoyed by the Assignee, for its own use and behalf and the use and behalf of its successors, legal representatives, and assigns, as fully and entirely as the same would have been held and enjoyed by the Assignor had this sale and assignment not been made.

The Assignor hereby represents to the Assignee, its successors, legal representatives, and assigns, that, at the time of execution and delivery of these presents, or if applicable, at such time said prior agreement was executed, the Assignor is a lawful owner of an undivided interest in the entire right, title, and interest in and to the Invention(s), that the Invention(s) are unencumbered, except, if applicable, by obligation to assign in accordance with said prior agreement, and that the Assignor has good and full right and lawful authority to sell and convey the same in the manner set forth herein.

The Assignor hereby covenants and agrees to and with the Assignee, its successors, legal representatives, and assigns, that the Assignor will sign all papers and documents, take all lawful oaths, and do all acts necessary or required to be done in connection with any and all proceedings for the procurement, maintenance, enforcement and defense of the Invention(s), said applications, and said patents, including interference proceedings, without charge to the Assignee, its successors, legal representatives, and assigns, but at the cost and expense of the Assignee, its successors, legal representatives, and assigns.

The Assignor hereby authorizes and requests the attorneys of COOLEY GODWARD L.L.P. to insert in the spaces provided above the filing date, the application number, and the attorney docket number of the application identified in paragraph (1) or (2) when known.

The Assignor hereby requests the Commissioner of Patents to issue said patents of the United States to the Assignee for the sole use and behalf of the Assignee, its successors, legal representatives, and assigns.

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Date: 9/13/05By: 

Avram Allan EDIDIN

State of CALIFORNIA)

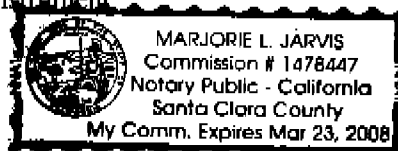
ss.

County of SANTA CLARA)

On Sept. 13, 2005, before me, Marjorie L. Jarvis, personally appeared Avram Allan Edidin, personally known to me or proved to me on the basis of satisfactory evidence, to be the person(~~s~~) whose name(~~s~~) (~~is~~are subscribed to the within instrument and acknowledged to me that (~~he~~she/they executed the same in (~~his~~her/their authorized capacity(ies), and that by (~~his~~her/their signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Marjorie L. Jarvis
Signature of Notary Public



Place Notary Seal Above

Date: 9/1/05By: 

Arthur E. FERDINAND

State of CALIFORNIA)

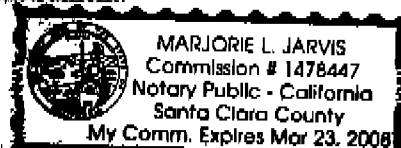
ss.

County of SANTA CLARA)

On Sept. 1, 2005, before me, Marjorie L. Jarvis, personally appeared Arthur E. Ferdinand, personally known to me or proved to me on the basis of satisfactory evidence, to be the person(~~s~~) whose name(~~s~~) (~~is~~are subscribed to the within instrument and acknowledged to me that (~~he~~she/they executed the same in (~~his~~her/their authorized capacity(ies), and that by (~~his~~her/their signature(~~s~~) on the instrument the person(~~s~~), or the entity upon behalf of which the person(~~s~~) acted, executed the instrument.

WITNESS my hand and official seal.

Marjorie L. Jarvis
Signature of Notary Public



Place Notary Seal Above

PATENT

REEL: 016853 FRAME: 0089

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Date: 9/1/05By: 

Cesar A. ICO

State of CALIFORNIA)

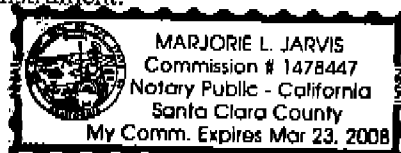
ss.

County of SANTA CLARA)

On Sept. 1, 2005, before me, Marjorie L. Jarvis, personally appeared Cesar A. Ico, personally known to me or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Marjorie L. Jarvis
Signature of Notary Public



Place Notary Seal Above

Date: 9/16/05By: 

Aaron D. MARKWORTH

State of ND)

ss.

County of Morris)

On Sept. 16, 2005, before me, Zefkiser Ferati, personally appeared Aaron D. Markworth, personally known to me or proved to me on the basis of satisfactory evidence, to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Zefkiser Ferati
Signature of Notary Public

Zefkiser Ferati

Notary Public

Expires 03/07/2010

Place Notary Seal Above