

RECORDATION FORM COVER SHEET PATENTS ONLY

U.S. DEPARTMENT OF COMMERCE
U.S. Patent And Trademark Office

To the Honorable Commissioner For Patents: Please record the attached original documents or copy thereof:

1. Name of conveying party:

Derrick R. Burns

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

☐ Yes

☒ No

3. Nature of Conveyance:

☐ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☒ Other: Consulting Agreement

Execution Date: January 1, 2004

2. Name and address of receiving party:

Name: Trovix, Inc.

Internal Address:

Street Address: 2151 Landings Drive

City: Mountain View

State: CA Zip: 94043

Additional name(s) & address(es) attached?

☐ Yes

☒ No

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.: 11/253,974

B. Patent No.(s):

Additional numbers attached? ☐ Yes ☒ No

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

Name: Antonia L. Sequeira

Internal Address: Fenwick & West LLP

Street Address: Silicon Valley Center
801 California Street

City: Mountain View State: CA Zip Code: 94041

6. Total number of applications and patents involved: 1

7. Total fee (37 CFR 3.41): \$40.00

☐ Check Enclosed

☐ Fee Transmittal Enclosed

☒ Charge the indicated fees to the below mentioned deposit account.

8. Deposit Account No.: 19-2555

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.

Antonia L. Sequeira, Reg. No. 54,670

Name of Person Signing

Antonia L. Sequeira
Signature

1/19/06
Date

Total number of pages including cover sheet, attachments, documents: 9

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.

Case Docket No.: 23424-09610

CONSULTING AGREEMENT

This Consulting Agreement (this "*Agreement*") is made as of January 1, 2004 (the "*Effective Date*"), by and between Trovix, Inc., a Delaware corporation having its principal place of business at 231 Manzanita Ave., Palo Alto, CA 94306 (the "*Company*"), and Derrick R. Burns, whose address is 307 Delmar Way, San Mateo CA 94403 (the "*Consultant*").

Consultant desires to perform, and the Company desires to have Consultant perform, consulting services as an independent contractor to the Company.

NOW, THEREFORE, the parties agree as follows:

1. Services.

(a) Request. From time to time during the Period of Consultancy (as defined below), the Company may request Consultant to perform certain services for the Company. The Company has no obligation to request Consultant to perform any services, and, if the Company requests Consultant to perform services, Consultant has no obligation to agree to perform such services. Any request by the Company to have Consultant perform services pursuant to this Agreement will be set forth in writing in the form attached hereto as Exhibit A (the "*Project Description*"). Each Project Description will specify the services to be performed, including the specific results to be achieved, the start date and the required completion date for the services, and the compensation to be paid by the Company to Consultant for the services, including any conditions to the payment of such compensation.

(b) Performance. Consultant will perform the services set forth in each Project Description executed by the parties in accordance with the terms set forth in such Project Description and this Agreement (the "*Services*").

(c) Period of Consultancy. The "*Period of Consultancy*" will commence on the Effective Date and will terminate on July 1, 2004, unless Consultant is performing Services pursuant to an executed Project Description that specifies a later completion date. In such event, the Period of Consultancy will terminate on the specified completion date.

(d) Payment. Subject to the terms and conditions of this Agreement, for the performance of the Services set forth in an executed Project Description, the Company will pay Consultant the consulting fee stated in such Project Description. Any expenses incurred by Consultant in performing the Services will be the sole responsibility of Consultant. If applicable, unless provided otherwise in such Project Description, Consultant will invoice the Company on a monthly basis for the time spent in performing the Services, and the Company will pay each such invoice no later than thirty (30) days after its receipt.

2. Relationship of Parties.

(a) Independent Contractor. Consultant is an independent contractor and is not an agent or employee of, and has no authority to bind, the Company by contract or otherwise. Consultant will perform the Services under the general direction of the Company, but Consultant will determine, in Consultant's sole discretion, the manner and means by which the Services are accomplished, subject to the requirement that Consultant shall at all times comply with applicable law. The Company has no right or authority to control the manner or means by which the Services are accomplished.

(b) Employment Taxes and Benefits. Consultant will report as self-employment income all compensation received by Consultant pursuant to this Agreement. Consultant will indemnify the Company and hold it harmless from and against all claims, damages, losses and expenses, including reasonable fees and expenses of attorneys and other professionals, relating to any obligation imposed by law on the Company to pay any withholding taxes, social security, unemployment or disability insurance, or similar items in connection with compensation received by Consultant pursuant to this Agreement. Except as set forth in an Exhibit A, Consultant will not be entitled to receive any vacation or illness payments, or to participate in any plans, arrangements, or distributions by the Company pertaining to any bonus, stock option, profit sharing, insurance or similar benefits for the Company's employees.

(c) Liability Insurance. Consultant will maintain adequate insurance to protect Consultant from the following: (i) claims under workers' compensation and state disability acts; (ii) claims for damages because of bodily injury, sickness, disease or death that arise out of any negligent act or omission of Consultant; and (iii) claims for damages because of injury to or destruction of tangible or intangible property, including loss of use resulting therefrom, that arise out of any negligent act or omission of Consultant.

3. Property of Company.

(a) Definition of Innovations. Consultant agrees to disclose in writing to the Company all inventions, products, designs, drawings, notes, documents, information, documentation, improvements, works of authorship, processes, techniques, know-how, algorithms, technical and business plans, specifications, hardware, circuits, computer languages, computer programs, databases, user interfaces, encoding techniques, and other materials or innovations of any kind that Consultant may make, conceive, develop or reduce to practice, alone or jointly with others, in connection with performing Services or that result from or that are related to such Services, whether or not they are eligible for patent, copyright, mask work, trade secret, trademark or other legal protection ("*Innovations*").

(b) Ownership of Innovations. Consultant and the Company agree that, to the fullest extent legally possible, all Innovations will be works made for hire owned exclusively by the Company. Consultant agrees that, regardless of whether the Innovations are legally works made for hire, all Innovations will be the sole and exclusive property of the Company. Consultant hereby irrevocably transfers and assigns to the Company, and agrees

to irrevocably transfer and assign to the Company, all right, title and interest in and to the Innovations, including all worldwide patent rights (including patent applications and disclosures), copyright rights, mask work rights, trade secret rights, know-how, and any and all other intellectual property or proprietary rights therein (collectively, "*Intellectual Property Rights*"). At the Company's request and expense, during and after the term of this Agreement, Consultant will assist and cooperate with the Company in all respects and will execute documents, and, subject to the reasonable availability of Consultant, give testimony and take such further acts reasonably requested by the Company to enable the Company to acquire, transfer, maintain, perfect and enforce its Intellectual Property Rights and other legal protections for the Innovations. Consultant hereby appoints the officers of the Company as Consultant's attorney-in-fact to execute documents on behalf of Consultant for this limited purpose.

(c) Moral Rights. Consultant also hereby irrevocably transfers and assigns to the Company, and agrees to irrevocably transfer and assign to the Company, and waives and agrees never to assert, any and all Moral Rights (as defined below) that Consultant may have in or with respect to any Innovation, during and after the term of this Agreement. "*Moral Rights*" mean any rights to claim authorship of any Innovation, to object to or prevent the modification or destruction of any Innovation, to withdraw from circulation or control the publication or distribution of any Innovation, and any similar right, existing under judicial or statutory law of any country in the world, or under any treaty, regardless of whether or not such right is called or generally referred to as a "moral right."

(d) Related Rights. To the extent that Consultant owns or controls (presently or in the future) any patent rights, copyright rights, mask work rights, trade secret rights, or any other intellectual property or proprietary rights that block or interfere with the rights assigned to the Company under this Agreement (collectively, "*Related Rights*"), Consultant hereby grants or will cause to be granted to the Company a non-exclusive, royalty-free, irrevocable, worldwide license to make, have made, use, offer to sell, sell, import, copy, modify, create derivative works based upon, distribute, sublicense, display, perform and transmit any products, software, hardware, methods or materials of any kind that are covered by such Related Rights, to the extent necessary to enable the Company to exercise all of the rights assigned to the Company under this Agreement.

4. Confidential Information. Consultant acknowledges that Consultant will acquire information and materials from the Company and knowledge about the business, financial condition, products, programming techniques, experimental work, customers and suppliers of the Company and that all such knowledge, information and materials acquired, the existence, terms and conditions of this Agreement, and the Innovations, are and will be the trade secrets and confidential and proprietary information of the Company (collectively, the "*Confidential Information*"). Confidential Information will not include, however, any information that is or becomes part of the public domain through no fault of Consultant or that the Company regularly gives to third parties without restriction on use or disclosure. Consultant agrees to hold all such Confidential Information in strict confidence, not to disclose it to others or use it in any way, commercially or otherwise, except in performing the Services,

and not to allow any unauthorized person access to it, either before or after expiration or termination of this Agreement. Consultant further agrees to take all action reasonably necessary to protect the confidentiality of the Confidential Information including, without limitation, implementing and enforcing operating procedures to minimize the possibility of unauthorized use or copying of the Confidential Information.

5. **Indemnification by Consultant.** Consultant will indemnify and hold harmless the Company from and against all claims, damages, losses and expenses, including court costs and reasonable fees and expenses of attorneys, expert witnesses, and other professionals, arising out of or resulting from, and, at the Company's option, Consultant will defend the Company against:

(a) any action by a third party against the Company that is based on any claim that any Services performed under this Agreement, or any results of the Services (including any Innovations), or the Company's use thereof, infringe, misappropriate or violate any patent rights, copyright rights, mask work rights, trade secret rights or any other intellectual property or proprietary rights; and

(b) any action by a third party that is based on any negligent act or omission or willful conduct of Consultant and which results in: (i) any bodily injury, sickness, disease or death; (ii) any injury or destruction to tangible or intangible property (including computer programs and data) or any loss of use resulting therefrom; or (iii) any violation of any statute, ordinance, or regulation.

6. **Termination and Expiration.**

(a) **Breach.** Either party may terminate this Agreement in the event of a material breach by the other party of this Agreement if such breach continues uncured for a period of ten (10) days after written notice.

(b) **At Will.** The Company may immediately terminate this Agreement at any time, for any reason or no reason, by written notice to Consultant.

(c) **Expiration.** Unless terminated earlier, this Agreement will expire at the end of the Period of Consultancy.

(d) **No Election of Remedies.** The election by the Company to terminate this Agreement in accordance with its terms shall not be deemed an election of remedies, and all other remedies provided by this Agreement or available at law or in equity shall survive any termination.

(e) **Effect of Expiration or Termination.** Upon the expiration or termination of this Agreement for any reason, Consultant will promptly notify the Company of all Confidential Information, including but not limited to any Innovations, in Consultant's possession or control and, at Consultant's expense and in accordance with the Company's instructions, will promptly deliver to the Company all such Confidential Information.

(f) Survival. The provisions of Sections 2(b), 3, 4, 5, 6(d), 6(e), 6(f), 7, 8(c) and 9 will survive the expiration or termination of this Agreement.

7. Limitation of Liability. IN NO EVENT SHALL THE COMPANY BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE COMPANY HAS BEEN INFORMED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES.

8. Covenants.

(a) Competitive Activities. Consultant will not during the term of this Agreement, directly or indirectly, in any individual or representative capacity, engage or participate in or provide services to any business that is competitive with the types and kinds of business being conducted by the Company.

(b) Pre-existing Obligations. Consultant represents and warrants that Consultant has no pre-existing obligations or commitments (and will not assume or otherwise undertake any obligations or commitments) that would hinder Consultant's performance of its obligations under this Agreement.

(c) Solicitation of Employment. Because of the trade secret subject matter of the Company's business, Consultant agrees that it will not solicit the services of any of the employees, consultants, suppliers or customers of the Company during the Period of Consultancy and for a period of six (6) months thereafter.

9. General.

(a) Assignment. Consultant may not assign Consultant's rights or delegate Consultant's obligations under this Agreement either in whole or in part without the prior written consent of the Company. Any attempted assignment or delegation without such consent will be void.

(b) Equitable Remedies. Because the Services are personal and unique and because Consultant will have access to Confidential Information of the Company, the Company will have the right to enforce this Agreement and any of its provisions by injunction, specific performance or other equitable relief, without having to post a bond or other consideration, in addition to all other remedies that the Company may have for a breach of this Agreement.

(c) Attorneys' Fees. If any action is necessary to enforce the terms of this Agreement, the substantially prevailing party will be entitled to reasonable attorneys' fees, costs and expenses in addition to any other relief to which such prevailing party may be entitled.

(d) Governing Law; Severability. This Agreement will be governed by and construed in accordance with the laws of the State of California, excluding that body of law pertaining to conflict of laws. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the parties hereby consent to the personal jurisdiction and venue therein. If any provision of this Agreement is for any reason found to be unenforceable, the remainder of this Agreement will continue in full force and effect.

(e) Notices. All notices required or permitted under this Agreement will be in writing and delivered by confirmed facsimile transmission, by courier or overnight delivery service, or by certified mail, and in each instance will be deemed given upon receipt. All notices will be sent to the addresses set forth below or to such other address as may be specified by either party to the other in accordance with this Section.

(f) Complete Understanding; Modification. This Agreement, together with each Exhibit A executed by the parties, constitutes the complete and exclusive understanding and agreement of the parties with respect to the subject matter hereof and supersedes all prior understandings and agreements, whether written or oral, with respect to the subject matter hereof. In the event of a conflict, the terms and conditions of each Exhibit A executed by the parties will take precedence over the terms and conditions of this Agreement. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by the parties hereto.

(g) Waiver The waiver of any breach of any provision of this Agreement shall not constitute a waiver of any subsequent breach of the same other provisions hereof.

(h) Counterparts. This Agreement may be executed in counterparts.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the parties have signed this Agreement as of the Effective Date.

COMPANY:

By: J. B. [Signature]Title: CEODate: Jan 1, 2009

CONSULTANT:

Derrick R. BurnsName: Derrick R. BurnsDate: 1-14-09

EXHIBIT AProject Description

This Project Description is issued under and subject to all of the terms and conditions of the Consulting Agreement dated as of January 1, 2004 by and between the Company and Derrick R. Burns

1. Services to be performed and results to be achieved:

Engineering Management, Software development for Knowledgebase and Search system,
Business Strategy

2. Monthly Consulting Fee (Cash): \$ N/A
3. Min. No. of Hours Per Month Req.: 160 hours
4. Start Date: January 1, 2004
5. Required Completion Date: July 1, 2004

6. Stock Option: Consultant will be granted the opportunity to purchase up to twenty-four thousand (24,000) shares of Common Stock of the Company (the "Shares") under the Company's 2002 Equity Incentive Plan (the "Plan") at the fair market value of the Company's Common Stock, as determined by the Board of Directors on the date the Board approves such grant. The Shares will vest at the rate of 16.667% on February 1, 2004, and an additional 16.667% per full month thereafter, so long as Consultant continues to perform the services set forth in this Project Description for the Company.

AGREED AS OF January 1, 2004

COMPANY:

By: J. Berry
Title: CEO

CONSULTANT:

Derrick R. Burns
Name: Derrick R. Burns

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