

09-08-2006

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



EET

9/6/06

103304130

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)

iSpheres Corporation

2. Name and address of receiving party(ies)

Name: IS2006 Assignment fbo Creditors, LLC

Internal Address: _____

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

3. Nature of conveyance/Execution Date(s):

Execution Date(s) May 3, 2006

- ☒ Assignment ☐ Merger
☐ Security Agreement ☐ Change of Name
☐ Joint Research Agreement
☐ Government Interest Assignment
☐ Executive Order 9424, Confirmatory License
☐ Other _____

Street Address: 4457 Willow Road, Ste. 202

City: Pleasanton

State: CA

Country: USA Zip: 94588

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

4. Application or patent number(s):

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

A. Patent Application No.(s)

10/365,747

B. Patent No.(s)

Additional numbers attached? ☐ Yes ☒ No

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

Name: Docket Administrator

Internal Address: _____

Street Address: 307 Middletown-Lincroft Road

Room 1N-391

City: Lincroft

State: NJ Zip: 07738

Phone Number: 732-852-2047

Fax Number: 732-852-1143

Email Address: lchesal@avaya.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 501602

Authorized User Name David Volejnick

9. Signature:

David Volejnick
Signature

31 Aug 2006
Date

David Volejnick
Name of Person Signing

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

Documents to be recorded (including cover sheet) should be faxed to (571) 273-0140, or mailed to:
Mail Stop Assignment Recordation Services, Director of the USPTO, P.O.Box 1450, Alexandria, V.A. 22313-1450

GENERAL ASSIGNMENT

This Assignment is made as of the 3rd day of May, 2006, by ISpheres Corporation, a California corporation, with offices at 4457 Willow Road, Suite 202, Pleasanton, CA 94588, hereinafter referred to as "Assignor", to IS2006 Assignment fbo Creditors, LLC, a California limited liability corporation hereinafter referred to, along with any successors and assigns, as "Assignee".

RECITALS

WHEREAS, Assignor has determined that, based upon its business prospects, entering into this Assignment is in the best interests of the Assignor's creditors; and

WHEREAS, Assignor believes that Assignee is well qualified to efficiently administer the Assignment for the benefit of the Assignor's creditors;

NOW, THEREFORE, for valuable consideration, the receipt of which is duly acknowledged, the parties agree as follows:

AGREEMENT

1. Assignment of Assets.

(a) Assignor, for and in consideration of the covenants and agreements to be performed by Assignee, as hereinafter contained, and for good and valuable consideration, receipt whereof is hereby acknowledged, does hereby grant, bargain, sell, assign, convey and transfer to Assignee, its successors and assigns, in trust, for the benefit of Assignor's creditors generally, all of the property of Assignor of every kind and nature and wheresoever situated, both real and personal, and any interest or equity therein not exempt from execution, including, but not limited to, all that certain stock of merchandise, equipment, furniture, fixtures, accounts, books, cash on hand, cash in bank, deposits, patents, copyrights, trademarks and trade names and all associated goodwill, source codes, software, and related documentation, insurance policies, and choses in action that are legally assignable, together with the proceeds of any existing non-assignable choses in action that may hereafter be recovered or received by Assignor. Assignor agrees to execute such additional documents as shall be necessary to accomplish the purposes of this Assignment.

(b) This Assignment specifically includes and covers all claims for refund or abatement of all excess taxes heretofore or hereafter assessed against or collected from Assignor by the U.S. Treasury Department or any other taxing agency, and Assignor agrees to sign and execute power of attorney or such other documents as required to enable Assignee to file and prosecute, compromise and/or settle, all such claims before the Internal Revenue Service, U.S. Treasury Department or any other taxing or other Governmental agency.

(c) Assignee is to receive said property, conduct said business, should it deem it proper, and is hereby authorized at any time after the signing hereof by

Assignor to sell and dispose of said property upon such time and terms as it may see fit, and is to pay to creditors of Assignor pro rata, the net proceeds arising from the conducting of said business and sale and disposal of said property, after deducting all moneys which Assignee may at its option pay for the discharge of any lien on any of said property and any indebtedness which under the law is entitled to priority of payment, and all expenses, including a reasonable fee to Assignee and its attorneys.

2. Payment of Fees. Assignee shall be entitled to be paid the fees and recover the costs set forth in the Compensation and Expense Reimbursement Agreement dated as of the date hereof between the Assignor and the Assignee (the "Fee Letter").

3. Appointment of Agents. Assignee is authorized and empowered to appoint and compensate such agents, field representatives and/or attorneys and/or accountants as it may deem necessary, and such agents and/or field representatives shall have full power and authority to open bank accounts in the name of Assignee or its nominees or agents and to deposit assigned assets or the proceeds thereof in such bank accounts and to draw checks thereon and with the further power and authority to do such other acts and to execute such papers and documents in connection with this Assignment as Assignee may consider necessary or advisable.

4. Certain Acknowledgments Regarding Transfer. Assignor acknowledges that certain of the assets being assigned under this General Assignment may be subject to restrictions on the use or transfer of such assets, the unauthorized use or transfer of which may result in further damages or claims. Such assets may include, without limitation, intellectual property rights of the Assignor (e.g., trade names, service names, registered and unregistered trademarks and service marks and logos; internet domain names; patents, patent rights and applications therefor, copyrights and registrations and applications therefor; software and source code (and software licenses with respect thereto); customer lists and customer information; know-how, trade secrets, inventions, discoveries, concepts, ideas, methods, processes, designs, formulae, technical data, drawings, specifications, data bases and other proprietary assets (collectively, "Intellectual Property")). Assignor represents and warrants that its officers, directors, shareholders, employees, agents, customers and other third parties have been advised not to use, remove or cause a transfer (other than pursuant to this General Assignment) of any of the assets of Assignor, including without limitation the Intellectual Property, either prior or subsequent to this General Assignment, except as expressly authorized in writing in advance, which written authorization is not inconsistent with or otherwise may constitute a breach of any other written agreement. Except as authorized in writing, which has been disclosed in writing to Assignee, Assignor further represents and warrants that no asset (including, without limitation, the Intellectual Property) has been transferred, used, or removed, in whole or in part, in a manner that interferes with the rights and interests of a third party(ies) in such asset or otherwise may constitute a breach of any contract with such third party(ies).

5. Representations and Warranties of the Assignor. Assignor represents and warrants to Assignee that as of the date hereof:

(a) Assignor has all requisite power and authority to execute, deliver and perform its obligations under this Assignment, including, without limitation, to transfer the property transferred to the Assignee hereby;

(b) the execution, delivery and performance by the Assignor of this Assignment has been duly authorized by all necessary limited partnership and other action and does not and will not require any registration with, consent or approval of, or notice to or action by, any person (including any governmental authority) in order to be effective and enforceable;

(c) this Assignment constitutes the legal, valid and binding obligation of the Assignor, enforceable against it in accordance with its terms; and

(d) all claims for wages, expense reimbursements, benefits and other compensation with priority over the Assignor's other creditors pursuant to California Code of Civil Procedure § 1204 accrued or otherwise arising prior to the date hereof have been paid in full.

6. Resignation and Replacement of Assignee. The Assignee may resign and be discharged from its duties hereunder at any time; provided that such resignation shall not become effective until a successor Assignee has been appointed by the resigning Assignee and such successor has accepted its appointment in writing delivered to the resigning Assignee. Any successor Assignee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall deliver one counterpart thereof to the resigning Assignee. Thereupon such successor Assignee shall, without any further act, become vested with all the estate, properties, rights, powers, trusts, and duties of his predecessor in connection with the Assignment with like effect as if originally named therein, but the resigning Assignee shall nevertheless, when requested in writing by the successor Assignee, execute and deliver an instrument or instruments conveying and transferring to such successor Assignee all of the estates, properties, rights, powers and trusts of such resigning Assignor in connection with the Assignment, and shall duly assign, transfer, and deliver to such successor Assignee all property and money held by it hereunder.

7. Limitation of Liability. Assignor acknowledges that Assignee is acting solely as Assignee in connection with this Assignment and not in its personal capacity. As a result, Assignor expressly agrees that Assignee shall not be subject to any personal liability whatsoever to any person in connection with the affairs of this Assignment, except for its own misconduct knowingly and intentionally committed in bad faith. No provision of this Agreement shall be construed to relieve the Assignee from liability for its own misconduct knowingly and intentionally committed in bad faith, except that:

(a) The Assignee shall not be required to perform any duties or obligations except for the performance of such duties and obligations as are specifically set forth in this Assignment, and no implied covenants or obligations shall be read into this Assignment against the Assignee.

(b) In the absence of bad faith on the part of the Assignee, the Assignee may conclusively rely, as to the truth, accuracy and completeness thereof, on the statements and certificates or opinions furnished to the Assignee by the Assignor and conforming to the requirements of this Assignment.

(c) The Assignee shall not be liable for any error of judgment made in good faith.

(d) The Assignee shall not be liable with respect to any action taken or omitted to be taken by it in accordance with a written opinion of legal counsel addressed to the Assignee.

8. Reliance.

(a) The Assignee may rely and shall be protected in acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.

(b) The Assignee may consult with legal counsel to be selected by it, and the Assignee shall not be liable for any action taken or suffered by it in accordance with the advice of such counsel.

(c) Persons dealing with the Assignee shall look only to the assignment estate to satisfy any liability incurred by the Assignee in good faith to any such person in carrying out the terms of this Assignment, and the Assignee shall have no personal or individual obligation to satisfy any such liability.

9. Headings. The headings used in this Assignment are for convenience only and shall be disregarded in interpreting the substantive provisions of this Assignment.

10. Forwarding of Mail. Assignor authorizes the forwarding of its mail by the U.S. Postal Service as directed by Assignee.

11. Counterparts. This Assignment agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same document.

12. Attorneys fees and costs. Except as set forth in the Fee Letter, the parties agree that each of them shall bear its own legal costs and expenses in connection with the negotiation, drafting, execution or enforcement of this Assignment.

13. Entire Agreement. This Assignment and the Fee Letter contain the entire agreement of the parties hereto with respect to the matters covered and the transactions contemplated hereby, and no other agreement, statement, representation, warranty or promise made prior hereto or contemporaneously herewith by any party hereto, or any employee, officer, agent, or attorney of any party hereto shall be valid or

binding or relied upon by any party as an inducement to enter into, or as consideration for, this Assignment.

IN WITNESS WHEREOF the parties hereunder set their hands the day and year first above written.

Assignor's Federal Tax I.D. Number:

Federal # 94-3315860

iSpheres Corporation, a California
Corporation, Assignor


By: Deepak Gupta 5/2/06
Its: PRESIDENT + CEO

IS2006 Assignment fbo Creditors, LLC,
a California limited liability corporation,
Assignee

By: [Signature]
Its: Managing Member

CONSENT TO ASSIGNMENT BY THE STOCKHOLDERS

We, the undersigned, being owners and holders of the requisite number of the subscribed and issued voting stock of ISpheres Corporation, ("Assignor"), a California corporation (comprising the holders of at least a majority of the Preferred Stock and at least a majority of the outstanding shares voting on an as-converted basis), do hereby give our consent to the general assignment of all of the assets of Assignor to IS2006 Assignment fbo Creditors, LLC, as assignee for the benefit of creditors of Assignor. This consent form may be executed in counterparts and the counterparts together shall constitute one document.

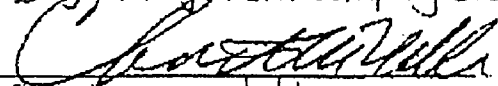
Stockholder	per certificate Number of Shares Held	after recap
	250,000 shares Series A	1,298,475
	114,551 "	605,354
	115,401 "	807,138
	397,750 shares Series B	same
Holder: Bay III Entrepreneurs Fund, LP by its General Partner Bay Management Company 2000, LLC		
By: 		
Name: Christopher Noble		
Title: Manager		
Holder: _____	_____	
By: _____		
Name: _____		
Title: _____		
Holder: _____	_____	
By: _____		
Name: _____		
Title: _____		
Holder: _____	_____	
By: _____		
Name: _____		
Title: _____		

CONSENT TO ASSIGNMENT BY THE STOCKHOLDERS

We, the undersigned, being owners and holders of the requisite number of the subscribed and issued voting stock of ISpheres Corporation, ("Assignor"), a California corporation (comprising the holders of at least a majority of the Preferred Stock and at least a majority of the outstanding shares voting on an as-converted basis), do hereby give our consent to the general assignment of all of the assets of Assignor to IS2006 Assignment fbo Creditors, LLC, as assignee for the benefit of creditors of Assignor. This consent form may be executed in counterparts and the counterparts together shall constitute one document.

Stockholder	per Certificate Number of Shares Held	After recap
	2,250,000 Shares Series A	11,634,274
	954,878 Shares Series A	4,959,539
	1,273,170 Shares Series A	6,612,718
	3,258,043 Shares Series B	same

Holder: Bay III, L.P.
by 175 General Partner
Bay Management Company 2000, LLC

By: 
 Name: Christopher Noble
 Title: Manager

Holder: _____

By: _____
 Name: _____
 Title: _____

Holder: _____

By: _____
 Name: _____
 Title: _____

Holder: _____

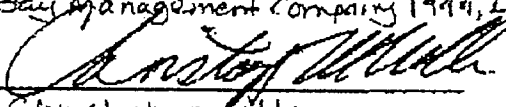
By: _____
 Name: _____
 Title: _____

CONSENT TO ASSIGNMENT BY THE STOCKHOLDERS

We, the undersigned, being owners and holders of the requisite number of the subscribed and issued voting stock of iSpheres Corporation, ("Assignor"), a California corporation (comprising the holders of at least a majority of the Preferred Stock and at least a majority of the outstanding shares voting on an as-converted basis), do hereby give our consent to the general assignment of all of the assets of Assignor to IS2006 Assignment fbo Creditors, LLC, as assignee for the benefit of creditors of Assignor. This consent form may be executed in counterparts and the counterparts together shall constitute one document.

Stockholder

Number of Shares Held

Holder: Bay Partners LS Fund, L.P. 25,309,336 shares Series B
by its General Partner
Bay Management Company 1999, LLC
By: 
Name: Christopher Noble
Title: Manager

Holder: _____

By: _____
Name: _____
Title: _____

Holder: _____

By: _____
Name: _____
Title: _____

Holder: _____

By: _____
Name: _____
Title: _____

CONSENT TO ASSIGNMENT BY THE STOCKHOLDERS

We, the undersigned, being owners and holders of the requisite number of the subscribed and issued voting stock of ISpheres Corporation, ("Assignor"), a California corporation (comprising the holders of at least a majority of the Preferred Stock and at least a majority of the outstanding shares voting on an as-converted basis), do hereby give our consent to the general assignment of all of the assets of Assignor to IS2008 Assignment fbo Creditors, LLC, as assignee for the benefit of creditors of Assignor. This consent form may be executed in counterparts and the counterparts together shall constitute one document.

Stockholder

Number of Shares Held

Holder: Newbury Ventures III, LP

17,417,510

By: 

Name: Jay B. Morrison

Title: Authorized Signatory

Holder: Newbury Ventures III
GmbH & Co., KG

6,129,774

By: 

Name: Jay B. Morrison

Title: Authorized Signatory

Holder: Newbury Ventures
Cayman III, LP

4,858,966

By: 

Name: Jay B. Morrison

Title: Authorized Signatory

Holder: Newbury Ventures
Executives III, LP

1,121,309

By: 

Name: Jay B. Morrison

Title: Authorized Signatory

CONSENT TO ASSIGNMENT BY THE STOCKHOLDERS

We, the undersigned, being owners and holders of the requisite number of the subscribed and issued voting stock of ISpheres Corporation, ("Assignor"), a California corporation (comprising the holders of at least a majority of the Preferred Stock and at least a majority of the outstanding shares voting on an as-converted basis), do hereby give our consent to the general assignment of all of the assets of Assignor to IS2008 Assignment fbo Creditors, LLC, as assignee for the benefit of creditors of Assignor. This consent form may be executed in counterparts and the counterparts together shall constitute one document.

Stockholder

Number of Shares Held

Holder:

Kaniastha Mani Chandy3,339,000

By:

Name:

Title:

K. M. ChandyK. M. Chandy

Holder:

By:

Name:

Title:

Holder:

By:

Name:

Title:

Holder:

By:

Name:

Title:

**ACTION BY WRITTEN CONSENT
OF THE BOARD OF DIRECTORS OF
ISPHERES CORPORATION**
a California corporation

Effective as of May 3, 2006

Pursuant to the provisions of the corporation's bylaws, the undersigned, constituting all of the members of the Board of Directors of ISpheres Corporation do hereby unanimously adopt the following resolutions as though adopted at a duly convened meeting of the Board:

BE IT RESOLVED that the officers and directors of the Company, and each of them, are hereby designated representatives of the Company for the purposes set forth herein and are hereby authorized and directed by the directors of the Company to make an assignment (General Assignment) of all assets of the Company to IS2006 Assignment fbo Creditors, LLC ("Assignee"), a California limited liability corporation, for the pro rata benefit of all creditors of the Company, and that each such officer is hereby authorized and directed to execute a General Assignment containing such provisions as may be agreed upon between such officer and Assignee, and each such officer is also authorized and directed to execute and deliver to Assignee, such other deeds, assignments, and agreements as may be necessary to carry this resolution into effect.

BE IT FURTHER RESOLVED that as consideration for serving as Assignee of all of the assets of the Company, the Company agrees that Assignee shall receive a fee in the amount of _____ and reimbursement of all expenses incurred in connection with the General Assignment, and is authorized to employ and compensate such agents, field representatives and/or attorneys and/or accountants as Assignee may deem necessary.

BE IT FURTHER RESOLVED that Assignee be, and hereby is, authorized to execute and file and prosecute on behalf of the Company all claims for refund or abatement of all excess taxes heretofore or hereafter assessed against or collected from the Company and any one officer of the Company be, and hereby is authorized and directed to make, execute and deliver in favor of such person as may be designated by the Assignee for the benefit of creditors, a power of attorney on the regular printed form thereof used by the United States Treasury Department so as to authorized said attorney-in-fact to process any tax claims forward on behalf of the Company.

RESOLVED FURTHER, that any actions heretofore or hereafter taken by the officers or directors of the Company within the terms of the foregoing resolutions are hereby ratified and confirmed as the act and deed of the Company.

In witness whereof, the undersigned do hereby execute this action taken without meeting effective as of the date first set forth above. This Action by Written Consent may be executed by means of one or more counterpart signature pages, all of which together constitute one written consent

Deepak Gupta
Deepak Gupta 5/3/06

Trevor Kienzle

John McNulty

RESOLVED FURTHER, that any actions heretofore or hereafter taken by the officers or directors of the Company within the terms of the foregoing resolutions are hereby ratified and confirmed as the act and deed of the Company.

In witness whereof, the undersigned do hereby execute this action taken without meeting effective as of the date first set forth above. This Action by Written Consent may be executed by means of one or more counterpart signature pages, all of which together constitute one written consent

Deepak Gupta



Trevor Kienzle

John McNulty

RESOLVED FURTHER, that any actions heretofore or hereafter taken by the officers or directors of the Company within the terms of the foregoing resolutions are hereby ratified and confirmed as the act and deed of the Company.

In witness whereof, the undersigned do hereby execute this action taken without meeting effective as of the date first set forth above. This Action by Written Consent may be executed by means of one or more counterpart signature pages, all of which together constitute one written consent

Deepak Gupta

Trevor Klenzie

John M. Nix