

**PATENT ASSIGNMENT**

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
EFFECTIVE DATE:	12/16/2003

**CONVEYING PARTY DATA**

Name	Execution Date
Todd E Bushberger	12/16/2003
Buskins, LLC	12/16/2003

**RECEIVING PARTY DATA**

Name:	John R Hopkins
Street Address:	4650 Prospect Street
City:	Bow Mar
State/Country:	COLORADO
Postal Code:	80123

**PROPERTY NUMBERS Total: 4**

Property Type	Number
Patent Number:	6546679
Patent Number:	6578332
Application Number:	10066842
Application Number:	10016320

**CORRESPONDENCE DATA**

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ATTORNEY DOCKET NUMBER:	41908-01130
NAME OF SUBMITTER:	Russell T. Manning

**OP \$160.00 6546679**

**PATENT**

**Total Attachments: 13**

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BUSHKINS, LLC  
OPERATING AGREEMENT

THIS AGREEMENT OF LIMITED LIABILITY COMPANY made as of the first day of January 2004, by and among (between) Todd Bushberger and John Hopkins (individually referred to as "Member" and collectively referred to as "Members").

PRELIMINARY RECITALS

- A. The Members desire to own, operate, finance, provide for management of, and possibly sell or otherwise dispose of certain technology associated with foundation sealing and pending patent applications, specifically including applied patent numbers: U.S. Serial No. 10/016,320; U.S. Serial No. 10/066,842 and Canadian Serial No. 2364947 associated therewith (the "Business") and to engage in any and all general business activities related or incidental thereto;
- B. The Members anticipate that they will achieve such purposes by the formation of a limited liability company known as Bushkins, LLC, a limited liability company (the "Company") by causing the filing of Articles of Organization (the "Articles") pursuant to the Wisconsin Statute Chapter 183 (the "Act");
- C. The Members desire to set forth in full all of the terms and conditions of their agreements and understandings in the Operating Agreement of limited liability company (this "Agreement");

NOW, THEREFORE, in consideration of the foregoing, of the mutual promises contained herein, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, intending legally to be bound, hereby agree as follows:

ARTICLE 1. FORMATION

1.1 Name. The name of this limited liability company shall be Bushkins, LLC.

1.4 Term. The Company's term as a limited liability company shall continue until terminated by operation of law or by some provision of this Agreement.

ARTICLE 2. CAPITAL CONTRIBUTIONS.

2.1 Capital Contributions by Members.

John Hopkins, for consideration of \_\_\_\_\_ of Bushkins LLC and 50% of all patent ownership present or future agrees to pay up to \_\_\_\_\_ for the initial patent applications and expenses incurred including attorney fees pertinent to LLC. The actual bills need to be submitted to John Hopkins after the LLC agreement is signed. Future expenses beyond the \_\_\_\_\_ will be paid for out of the LLC profit

2.2 Loans to The Company.

- (a) Members. No Member shall make a loan to the Company without the prior written consent of all of the Members.

(b) Third Parties. All members must approve any financing by third parties.

## 2.6 Capital Accounts.

- (a) Maintenance of Capital Accounts. A separate Capital Account shall be maintained and adjusted for each Member on the books and records of the Company in accordance with the Internal Revenue Code of 1986, as amended and any successor provisions or code (the "Code") and the regulations promulgated thereunder particularly the regulations under Code section 704(b) (the "Final Regulations").
- (i) Increase. To each Member's Capital Account there shall be credited the amount of any cash and the Value (see "GLOSSARY"), of any property contributed by such Member to the Company, such Member's distributive share of Profits (see "GLOSSARY"), and any other items in the nature of income or gain that are allocated pursuant to Article 3 hereof, and the amount of any Company liabilities that are assumed by such Member or that are secured by any Company property distributed to such Member.
- (ii) Decrease. To each Member's Capital Account there shall be debited the amount of cash and the Value of any Company property distributed to such member pursuant to any provision of this Agreement, such Member's distributive share of Losses (see "GLOSSARY"), and any other items in the nature of expenses or losses that are specially allocated pursuant to Article 3 hereof, and the amount of any liabilities of such Member that are assumed by the Company or that are secured by any property contributed by such Member to the Company.

ARTICLE 3. ALLOCATIONS.

- 3.1 Profits. Except as otherwise provided herein, Profits shall be allocated pro rata to each Member in accordance with the number of Units owned by such Member.
- 3.2 Losses. Except as otherwise provided herein, Losses shall be allocated pro rata to each Member in accordance with the number of Units owned by such Member.
- 3.4 Tax Allocations: Code Section 704(c). In accordance with Code Section 704(c) and the Treasury Regulations thereunder, income, gain, loss, and deduction with respect to any property contributed to the capital of the Company shall, solely for tax purposes, be allocated among the Members so as to take account of any variation between the adjusted basis of such property to the Company for federal income tax purposes and its initial Value (computed in accordance with Part (i) of the definition of the term "Value" in Article 11 hereof;

ARTICLE 4. DISTRIBUTIONS.

4.1 Distributions. After allowing for reasonable capital fund and a reasonable allowance for all unpaid expenses of the Company, on a periodic basis as determined by all the Members, cash will be distributed as follows:

4.2 Amounts Withheld. All amounts withheld pursuant to the Code or any provision of any state or local tax law with respect to any payment or distribution to the Members shall be treated as amounts distributed to the Members pursuant to this Article 4 for all purposes under this Agreement.

ARTICLE 5. RIGHTS, DUTIES, POWERS, AND COMPENSATION OF MEMBERS.

5.1 Duties of Members. The Members shall manage and supervise the business and affairs of the company in accordance with and subject to the terms and conditions of this Agreement and of applicable law. No Member shall be required to devote his full time and efforts to the Company, but only so much of his time and efforts as is reasonably necessary to carry out his duties hereunder.

5.2 Powers of Members.

(b) Authority. The Members shall have full authority to act for and on behalf of the Company, and any action taken by the Members shall constitute the act of and serve to bind the Company. Persons dealing with the Company are entitled to rely conclusively upon the power and authority of the Members as set forth in this Agreement.

5.4 Right to Call a Meeting. The Members each shall have the right, for a proper purpose, to call a meeting of the Company, to examine and copy at the record office of the Company the books and records maintained pursuant to Section 9.1 hereof, and to obtain a list showing the Company's records as to the names, addresses, and interest in the Company of the Members.

#### ARTICLE 6. COMPANY ADMINISTRATION.

6.1 Voting and Decisions by Members and the Company. Unless otherwise provided in this Agreement, decisions of the Company shall be made by the vote or written consent of the Members, owning a majority of the outstanding Units in the Company.



6.2 Company Meetings. Unless waived in writing by each person entitled to such notice, notice of a Company meeting shall be given by the person calling the meeting at least seven (7) days in advance to all Members, and shall state the name of the person calling the meeting, the subject of the meeting, and the time and place of the meeting. Company meetings shall be held at the Company's principal office, or any other location that the Members deem appropriate. Any Member may participate in a meeting of the Company by telephone. A Member participating by telephone shall be deemed to be present in person at the meeting.

7.2 Disassociation. A person ceases to be a Member of the Company upon the occurrence of, and at the time of, any of the following events unless, in case of items (a) through (h), the other Members owning a majority of the outstanding Units in the Company consent to continue the person as a Member:

- (a) The Member assigns all of the Member's Units in the Company;
- (b) The Member makes an assignment for the benefit of creditors;
- (c) The Member files a voluntary petition in bankruptcy;
- (d) The Member becomes the subject of an order for relief under the federal bankruptcy laws;
- (e) The Member files an answer or other pleading admitting or failing to contest the material allegations of a petition filed against the Member in any proceeding under Section 7.2(d) above;
- (f) The Member seeks consents to or acquiesces in the appointment of a trustee, receiver, or liquidator of the Member or all or any substantial portion of the Member's properties;

- (g) At the expiration of one hundred twenty (120) days after the commencement of any involuntary proceeding against the member seeking reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any statute, law or regulation, if the proceeding has not been dismissed;
- (h) At the expiration of one hundred twenty (120) days after the appointment without the Member's consent or acquiescence of a trustee, receiver or liquidator of the Member or of all or any substantial part of the Member's properties if the appointment is not vacated or stayed, or at the expiration of one hundred twenty (120) days after the expiration of any stay, if the appointment is not vacated; or
- (i) The filing of articles of dissolution for the Member or the revocation of its charter and the lapse of the time provided by the laws of the state of incorporation without a reinstatement of its charter.

#### ARTICLE 8 DISSOLUTION AND WINDING UP.

- 8.1 Dissolution. The Company shall be dissolved upon the happening of any of the following:
- (a) A unanimous vote by the Members to dissolve the Company;
  - (b) The Company being adjudicated insolvent or bankrupt;
  - (c) An event of disassociation of a member unless within ninety (90) days after the date of such disassociation, Members owning at least a majority of the outstanding Units of the Company consent to continue the company; or
  - (d) Entry of a decree of judicial dissolution.
- 8.2 Winding Up and Liquidation. Upon dissolution of the company, the Members shall select a liquidator (the "Liquidator"). The Liquidator shall liquidate as much of the Company's assets, and shall do so as promptly as is consistent with obtaining fair value for them, and shall apply and distribute the available cash, any previously set aside reserves, and any unliquidated property (at fair market value) in accordance with the following:

ARTICLE 9. BOOKS, REPORTS, ACCOUNTING, AND TAX ELECTIONS.

- 9.1 Books and Records. The Members shall obtain or cause to be maintained at the Company's principal office, complete and accurate books and records with respect to all Company business and transactions, which books and records shall be kept in accordance with generally accepted accounting principles. At a minimum, the Members shall keep the following books and records at the principal office of the Company: (i) a current list of the full name and last-known business address of each Member set forth in alphabetical order; (ii) a copy of the Articles and all amendments thereto; (iii) copies of the company's federal, state and local income tax returns and reports for the six (6) most recent years; and (iv) copies of any effective written Company agreements and of any financial statements of the company for the three (3) most recent years.
- 9.2 Fiscal Year and Method of Accounting. The Company's fiscal year for both tax and financial reporting purposes shall be the calendar year. The method of accounting for both tax and financial reporting purposes shall be the cash method, unless the Members determines that there would be a significant advantage to the Company if different methods were followed.
- 9.3 Reports and Statements.
- (a) Annual Tax Reports. Within sixty (60) days of the end of the fiscal year of the Company, the Company shall cause to be delivered to the Members the following information with respect to the just completed fiscal year of the Company:
    - (i) Preparation of Returns. Such information as shall be necessary for the preparation by the Members of its federal, state, and local income and other tax returns; and
    - (ii) Tax Information. A copy of all income tax and information returns to be filed by the Company for the preceding fiscal year of the Company.
  - (b) Audits. A Member may cause audits by an independent certified public accountant selected by such member to be performed at the expense of the Member requesting such audit; provided, however, that such audits shall not be performed more than once during any twelve (12) month period.
- 9.4 Tax Elections.
- (a) General. Except as provided in Section 9.4(b) hereof, the Tax Matters Member shall have the sole discretion and authority to make or revoke any elections on behalf of the Company for tax purposes.

ARTICLE 10. MISCELLANEOUS

- 10.1 Amendments. Amendments to this Agreement shall be undertaken and effective only with the written consent of all of the Members.
- 10.2 Bank Accounts. Company funds shall be deposited in the name of the Company in accounts designated by the Members, and withdrawals shall be made only by persons duly authorized by the Members.
- 10.4 Captions, Gender, and Number. The captions in this Agreement are inserted only as a matter of convenience and in no way affect the terms or intent of any provision of this Agreement. All defined phrases, pronouns, and other variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular, or plural, as the actual identity of the organization, person, or persons may require.
- 10.6 Counterparts. This Agreement may be executed in one or more counterparts. Each such counterpart shall be considered an original and all of such counterparts shall constitute a single agreement binding all the parties as if all had signed a single document.

- 10.7 Entire Agreement. This Agreement constitutes the entire agreement among the members regarding the terms and operations of the Company, except for any amendments to his Agreement adopted in accordance with Section 10.1 hereof. This Agreement and the other agreements referred to in the preceding sentence supersede all prior and contemporaneous agreements, statements, understandings, and representations of the parties regarding the terms and operations of the Company, except as provided in the preceding sentence.
- 10.8 Last Day for Performance. In the event that the last day for performance of an act or the exercise of a right hereunder falls on a Saturday, Sunday, or a legal holiday on which federally chartered banks are generally closed for business, then the last day for such performance or exercise shall be the first business day immediately following the otherwise last day for such performance or such exercise.
- 10.9 Notices. All notices, requests, consents, or other communications provided for in or to be given under this Agreement shall be in writing, may be delivered in person, by facsimile transmission (fax), by overnight air courier or by mail, and shall be deemed to have been duly given and to have become effective (i) upon receipt if delivered in person or by fax, (ii) one day after having been delivered to an overnight air courier, or (iii) three days after having been deposited in the mails as certified or registered matter, all fees prepaid, directed to the parties or their assignees at the following addresses (or at such other address as shall be given in writing by a party hereto):

The majority of the Members of Bushkins, LLC may at any time agree to change, and/or alter any point included in the Agreement.

#### ARTICLE 11. GLOSSARY

"Depreciation" means, for each fiscal year or other period, an amount equal to the depreciation, amortization, or other cost recovery deduction allowable with respect to an asset for such year or other period, except that if the Value of an asset differs from its adjusted basis for federal income tax purposes at the beginning of such year or other period, Depreciation shall be an amount which bears the same ratio to such beginning Value as the federal income tax depreciation, amortization, or other cost recovery deduction for such year or other period bears to such beginning adjusted tax basis.

"Profits and Losses" means for each fiscal year or other period, an amount equal to the Company's taxable income or loss for such year or period, determined in accordance with Code Section 703(a) (for this purpose, all items of income, gain, loss, or deduction required to be stated separately pursuant to code Section 703(a)(1) shall be included in taxable income or loss), with the following adjustments:

- (i) Any income of the Company that is exempt from federal income tax and not otherwise taken into account in computing Profits or Losses pursuant to this definition shall be added to such taxable income or loss;
- (ii) Any expenditures of the company described in Code Section 705(a)(2)(B) or treated as Code Section 705(a)(2)(B) expenditures pursuant to Section

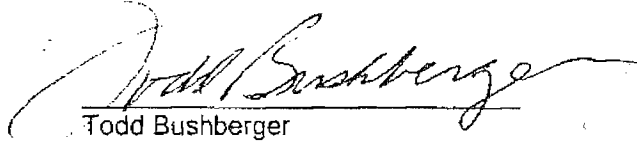
1.704-1(b)(2)(iv)(I) of the Final Regulations, and not otherwise taken into account in computing Profits or Losses pursuant to this definition, shall be subtracted from such taxable income or loss;

- (iii) Gain or loss resulting from any disposition of Company property with respect to which gain or loss is recognized for federal income tax purposes shall be computed by reference to the Value of the property disposed of, notwithstanding that the adjusted tax basis of such property differs from its Value;
- (iv) In lieu of the depreciation, amortization, and other cost recovery deductions taken into account in computing such taxable income or loss, there shall be taken into account Depreciation (see "GLOSSARY") for such fiscal year or other period hereof; and


"Value" means, with respect to any asset, the asset's adjusted basis for federal income tax purposes, except as follows:

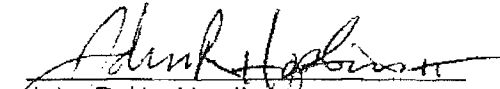
- (i) The initial Value of any asset contributed by a Member to the Company shall be the gross fair market value of such asset as determined by the Members and the Member.
- (ii) The Values of all company assets shall be adjusted to equal their respective gross fair market values, as determined by the Members as of the following times: (A) the acquisition of any additional interest in the Company by any new or existing Member in exchange for more than a de minimis capital contribution; (B) the distribution by the Company to a Member of more than a de minimis amount of Company property, unless all Members receive simultaneous distribution of undivided interests in the distributed property in proportion to their interests in the Company; and (C) the termination of the Company for federal income tax purposes pursuant to Code Section 708(b)(1)(B); and
- (iii) If the Value of an asset has been determined or adjusted pursuant to (i) or (ii) above, such Value shall there after be adjusted by the Depreciation taken into account with respect to such asset for purposes of computing Profits and Losses.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the day and year first above written.

  
Todd Bushberger


12-16-03  
Date

  
Notary Public  
State of Wisconsin  
My commission ends May 13, 2007

  
John R. Hopkins II

12/1/2003  
Date

State of Colorado  
City and County of Denver  
Subscribed and sworn to before me this 1st day of Dec., 2003  
My commission expires 02/25/06

  
Notary Public