

PATENT ASSIGNMENT

Electronic Version v1.1

Stylesheet Version v1.1

SUBMISSION TYPE:

NEW ASSIGNMENT

NATURE OF CONVEYANCE:

ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
BE SEEN Solutions, LLC	01/09/2008

RECEIVING PARTY DATA

Name:	Edison Nation Product Company 4, LLC
Street Address:	520 Elliot Street, Suite 200
City:	Charlotte
State/Country:	NORTH CAROLINA
Postal Code:	28202

PROPERTY NUMBERS Total: 3

Property Type	Number
Application Number:	60604495
Application Number:	11850912
Patent Number:	7267444

CORRESPONDENCE DATA

Fax Number: (877)248-5100

Correspondence will be sent via US Mail when the fax attempt is unsuccessful.

Phone: 704 248 6292

Email: uspto@ti-law.com

Correspondent Name: Chad D. Tillman

Address Line 1: PO Box 471581

Address Line 4: Charlotte, NORTH CAROLINA 28247

ATTORNEY DOCKET NUMBER:

1697.040 ENPC#4 ASSGN FEE

NAME OF SUBMITTER:

Chad D. Tillman

Total Attachments: 8

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PATENT

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COMMERCIALIZATION AND ASSIGNMENT AGREEMENT

This commercialization and assignment agreement ("AGREEMENT") is between (1) the person or persons identified at the end of this AGREEMENT as being the "ASSIGNOR" (hereinafter referred to collectively as "ASSIGNOR"); and (2) an affiliated company of Edison Nation, LLC, which affiliated company is a limited liability company organized and existing under the laws of the State of North Carolina and has a principal office and place of business at 520 Elliot Street, Charlotte, North Carolina 28202 (hereinafter "ASSIGNEE"). ASSIGNOR and ASSIGNEE are sometimes referred to herein as "PARTIES" and each, individually, a "PARTY".

WHEREAS ASSIGNOR and Edison Nation, LLC, are parties to that certain "Edison Nation Evaluation Agreement" having an effective date of 11/1/08 ("PRIOR AGREEMENT"), which PRIOR AGREEMENT is hereby incorporated herein by reference for the sole purpose of defining terms appearing in this AGREEMENT in both all caps and italics;

WHEREAS ASSIGNOR is obligated under the PRIOR AGREEMENT to sign this AGREEMENT for purposes of commercialization of one or more products ("PRODUCTS") related to the *INTELLECTUAL PROPERTY* previously submitted by ASSIGNOR to Edison Nation under the PRIOR AGREEMENT; and

WHEREAS ASSIGNOR desires to commercialize the PRODUCTS and/or *INTELLECTUAL PROPERTY* in accordance with the terms and obligations arising under this AGREEMENT;

NOW THEREFORE, in consideration of the premises and obligations of the PARTIES herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the PARTIES agree as follows:

1 ASSIGNMENT OF INTELLECTUAL PROPERTY

- 1.1 ASSIGNOR does hereby irrevocably quitclaim, sell, assign, transfer and convey unto ASSIGNEE all rights, title, and interests in, to, and under the *INTELLECTUAL PROPERTY* including, but not limited to: any and all inventions; any and all domestic, foreign and international patents and patent applications, including any reissue, reexamination, extension, renewal, substitution, conversion, confirmation, division, continuation, continuation-in-part, provisional, nonprovisional, and the like of any patent or patent application, and any patent or patent application claiming a right of priority to any of the foregoing; all domestic, foreign and international trademarks and trademark applications and registrations, and related URLs and websites; all domestic and foreign copyrights and associated works; trade secrets; prototypes; know how; designs; and drawings and schematics, and including any refinements, changes, variations, derivatives, and improvements of the foregoing; and any past or present right or cause of action arising there under any of the foregoing, including the right to sue for infringement. A nonexclusive itemized list of the *INTELLECTUAL PROPERTY* includes the *IP LIST* and any additional list set forth on Schedule A attached hereto.
- 1.2 ASSIGNOR further hereby covenants and agrees, and binds any and all heirs, administrators, legal representatives, nominees, and assigns, to assist and cooperate with ASSIGNEE in the preparation and prosecution of any patent, trademark or copyright application included within the *INTELLECTUAL PROPERTY* and in the prosecution or defense of any interference, opposition, lawsuit or other proceeding that may arise in connection with the *INTELLECTUAL PROPERTY* and, further, to execute and deliver to ASSIGNEE any and all additional petitions, oaths, assignments, or other papers or instruments that may be reasonably requested by ASSIGNEE; provided, however, that the actual, reasonable costs to ASSIGNOR that are incurred in compliance by ASSIGNOR with such assistance and cooperation will be reimbursed by ASSIGNEE.
- 1.3 ASSIGNOR further hereby covenants and agrees to authorize and empower ASSIGNEE to invoke and claim for any patent application, patent, trademark application, and trademark registration included within the *INTELLECTUAL PROPERTY* the benefit of any rights to which ASSIGNOR might be entitled under international law or under the laws of any particular country, and to invoke and claim such rights without further written or oral authorization from ASSIGNOR. ASSIGNOR hereby appoints ASSIGNEE as its lawful attorney in fact to act on its behalf for the limited purposes of effecting recordation or public notice of the assignment of any of the *INTELLECTUAL PROPERTY*, including the execution of assignment instruments for purposes of recordation with, for example, the U.S. Patent & Trademark Office and the U.S. Copyright Office.
- 1.4 ASSIGNOR further hereby covenants and agrees that this AGREEMENT and all the terms thereof shall inure to the benefit of the successors, assigns, legal representatives, or nominees of ASSIGNEE, without further written or oral authorization from ASSIGNOR.
- 1.5 The PARTIES acknowledge and agree that ASSIGNEE is to have, as between the PARTIES, the exclusive right to commercialize PRODUCTS and the *INTELLECTUAL PROPERTY*, and ASSIGNOR hereby agrees not to grant any rights to any

11/11/2008

third party and agrees not to work with, cooperate, or assist any third party with respect to commercialization of either the PRODUCTS or any of the *INTELLECTUAL PROPERTY* without the express written consent of ASSIGNEE.

1.6 Any breach by ASSIGNOR of any obligation of this Section 1 shall be deemed herein a material breach of this AGREEMENT.

2 CONSIDERATION TO ASSIGNOR IN EXCHANGE FOR ASSIGNMENT

2.1 As used herein:

- (a) "GROSS REVENUES" means all monies actually received by ASSIGNEE resulting from efforts by ASSIGNEE to commercialize any PRODUCT and any of the *INTELLECTUAL PROPERTY*, less any and all refunds, credits, credit card processing fees, chargebacks and other allowances to customers arising from the return or rejection of goods or otherwise granted in the ordinary course of business. For purposes of clarification, GROSS REVENUES shall not include (1) any monies received by ASSIGNEE in connection with enforcement actions against alleged infringers of the *INTELLECTUAL PROPERTY*, and (2) any monies received by ASSIGNEE in connection with licensing of the *INTELLECTUAL PROPERTY*.
- (b) "ADJUSTED GROSS REVENUES" means GROSS REVENUES less any and all refunds, credits, credit card processing fees, chargebacks and other allowances to customers arising from the return or rejection of goods or otherwise granted in the ordinary course of business, and less any attorney fees directly associated with a legal contract under which PRODUCTS or any of the *INTELLECTUAL PROPERTY* is commercialized.
- (c) "SELLING AND FULFILLMENT COSTS" means the costs incurred by ASSIGNEE associated with sales and fulfillment of orders for the PRODUCTS, including, without limitation, all actual and reasonable charges for media, inbound telemarketing, order taking and processing, credit card and check processing, warehousing, landed costs, freight in costs, applicable duties, taxes, insurance, packaging, shipping to customers, customer service, markdown money, fees, commissions, and other actual and reasonable amounts payable to brokers, distributors and other third parties incurred in connection with such sales.
- (d) "FEES AND COMMISSIONS" means all fees, commissions, and expenses payable to third parties in connection with ASSIGNEE'S efforts to commercialize any PRODUCT and any of the *INTELLECTUAL PROPERTY*.
- (e) "RETURNS AND BAD DEBTS" means all (i) allowances and credits to ASSIGNEE'S customers on account of rejection or return of units of PRODUCTS, (ii) losses incurred by ASSIGNEE due to returned merchandise which cannot be resold or otherwise becomes obsolete, and (iii) losses incurred by ASSIGNEE due to credit card chargebacks, bad checks, and other uncollectible debts.
- (f) "NET REVENUES" means ADJUSTED GROSS REVENUES less the sum of all SELLING AND FULFILLMENT COSTS, FEES AND COMMISSIONS, and RETURNS AND BAD DEBTS; provided, however, that none of the foregoing deductions shall include any amounts attributable to overhead or general and administrative expenses of ASSIGNEE.
- (g) "LICENSING REVENUES" means any monies received by ASSIGNEE in connection with licensing of the *INTELLECTUAL PROPERTY*.
- (h) "ASSIGNMENT REVENUES" means any monies received by ASSIGNEE in connection with assignment of all rights, title, and interest in, to and under any of the *INTELLECTUAL PROPERTY*.
- (i) "BRAND REVENUES" means any monies received by ASSIGNEE in connection with the sale of any goods by ASSIGNEE that are not PRODUCTS, but that are sold under a brand name that has been created by the ASSIGNOR, the rights to which brand name have been transferred to the ASSIGNEE as part of the *INTELLECTUAL PROPERTY* in accordance with this Agreement.

2.2 In exchange for the assignment of *INTELLECTUAL PROPERTY* set forth in Section 1, ASSIGNEE shall make payments (hereinafter "PAYMENTS", and each one a "PAYMENT") to ASSIGNOR, subject to the terms and conditions herein provided, in an amount equal to: (1) ten percent (10%) of NET REVENUES (if any); plus (2) fifty percent (50%) of LICENSING REVENUES (if any); plus (3) forty percent (40%) of ASSIGNMENT REVENUES (if any); plus (4) four percent (4%) of BRAND REVENUES (if any).

2.3 The PAYMENTS due hereunder shall become payable upon the following schedule:

- (a) The first PAYMENT shall become due and payable on the first December 31st following the EFFECTIVE DATE (the "FIRST PAYMENT DATE") and shall be paid within thirty (30) days of becoming due.
- (b) All PAYMENTS due hereunder subsequent to the first PAYMENT will become payable on each December 31st thereafter, and shall be paid within thirty (30) days of becoming due.
- (c) ASSIGNEE reserves the right to make PAYMENTS more frequently in its sole discretion.

2.4 Within thirty (30) days after the end of each calendar quarter, ASSIGNEE shall send to ASSIGNOR a written report ("STATEMENT") setting forth in reasonable detail the accrued NET REVENUES, LICENSING REVENUES, ASSIGNMENT REVENUES, and BRAND REVENUES for such calendar quarter. The information contained in the STATEMENTS shall form the basis for the amount of each annual PAYMENT.

2.5 PAYMENTS under this AGREEMENT shall continue until the twentieth (20th) anniversary of the EFFECTIVE DATE (the "TERMINATION DATE"), and the PAYMENT due on the TERMINATION DATE shall be the last PAYMENT due and payable hereunder.

2.6 Upon any material breach of this AGREEMENT by ASSIGNOR, which is defined to be (1) a breach of ASSIGNOR'S obligations set forth in Section 1, or (2) a breach of ASSIGNOR'S representations and warranties set forth in Section 6, any and all obligations to make any PAYMENT that has not become due and payable as of the date of such breach shall terminate.

3. \$100,000 THRESHOLD

3.1 If, on the date that is three (3) years after the EFFECTIVE DATE (the "THRESHOLD DATE"), the cumulative total of PAYMENTS made to ASSIGNOR by ASSIGNEE hereunder amounts to less than One Hundred Thousand Dollars (\$100,000), then ASSIGNOR shall have the right, upon written request to ASSIGNEE, to cause ASSIGNEE to convey to ASSIGNOR all rights, title, and interests in and to any then-existing patents, patent applications, trademarks, trademark applications, trademark registrations, copyrights, and copyright applications of the *INTELLECTUAL PROPERTY*. Simultaneously with such conveyance, ASSIGNOR shall grant to ASSIGNEE a non-exclusive, perpetual license in and to such patents, patent applications, trademarks, trademark applications, trademark registrations, copyrights, and copyright applications of the *INTELLECTUAL PROPERTY* that are conveyed. Such license shall include the right to sublicense, and all of the provisions of this AGREEMENT shall continue in full force and effect to the extent not contradicted by this Section 3.1.

3.2 If ASSIGNOR does not exercise the right to conveyance set forth in Section 3.1 within one (1) year of the THRESHOLD DATE, then ASSIGNOR shall be deemed to have waived such right to conveyance.

3.3 For the purposes of avoiding the conveyance contemplated by Section 3.1, ASSIGNEE shall have the right to make payment to ASSIGNOR of any amount required to make up the difference between the cumulative total of PAYMENTS made to ASSIGNOR by ASSIGNEE hereunder and One Hundred Thousand Dollars (\$100,000). If ASSIGNEE exercises this right to cover the shortfall, then ASSIGNOR shall not have the right to conveyance set forth in Section 3.1.

4. AUDIT RIGHTS OF ASSIGNOR

4.1 ASSIGNEE shall keep true and accurate records as to all PRODUCTS sold by it and all instances of commercialization by it of the *INTELLECTUAL PROPERTY*.

4.2 ASSIGNOR, through an independent designated representative acceptable to ASSIGNEE (such acceptance not to be unreasonably withheld), shall have the right at reasonable times and upon reasonable advance notice, not more often than once per calendar year, to inspect and audit ASSIGNEE'S records at ASSIGNOR'S expense for the purpose of verifying the accuracy of any PAYMENT and STATEMENT furnished to ASSIGNOR by ASSIGNEE under this AGREEMENT. The independent designated representative shall report only on the accuracy or any discrepancy in the PAYMENT and STATEMENT and shall not disclose any confidential information of ASSIGNEE, including, without limitation, its licensees, its customers, and any individual sales.

4.3 ASSIGNEE'S audit right shall apply only for each PAYMENT that has become due and payable.

5. TERM AND NON-TERMINATION

5.1 The term of this AGREEMENT shall naturally expire on the TERMINATION DATE.

5.2 The PARTIES jointly may agree to terminate this AGREEMENT; however, neither party shall have the unilateral right to terminate this AGREEMENT even if a material breach occurs by the other party.

5.3 ASSIGNOR'S sole remedy for any material breach of this AGREEMENT by ASSIGNEE shall be limited to monetary damages that directly result from a breach of this AGREEMENT by ASSIGNEE.

5.4 ASSIGNEE'S remedy for any material breach of this AGREEMENT by ASSIGNOR may include monetary damages as well as specific performance.

6. REPRESENTATIONS, WARRANTIES AND INDEMNITY

6.1 ASSIGNOR REPRESENTS AND WARRANTS TO ASSIGNEE THAT:

- (a) ASSIGNOR IS THE SOLE OWNER OF ALL RIGHTS, TITLE AND INTERESTS IN AND TO THE *INTELLECTUAL PROPERTY*;
- (b) ASSIGNOR HAS NOT HYPOTHECATED, PLEDGED, TRANSFERRED OR GRANTED ANY TYPE OF ENCUMBRANCE OR SECURITY INTEREST IN THE *INTELLECTUAL PROPERTY*;
- (c) ASSIGNOR HAS THE RIGHT AND ABILITY TO ENTER INTO THIS AGREEMENT;
- (d) ASSIGNOR HAS NO SPECIFIC KNOWLEDGE OF ANY CLAIMS OR REASONS WHY ASSIGNOR DOES NOT HAVE CLEAR TITLE TO ANY OF THE *INTELLECTUAL PROPERTY*;
- (e) ASSIGNOR HAS NO SPECIFIC KNOWLEDGE OF ANY RIGHTS OF THIRD PARTIES, INCLUDING ANY PATENT RIGHTS, THAT WOULD BE INFRINGED BY ANY OF THE *INTELLECTUAL PROPERTY*;

- (f) ALL STATEMENTS, DISCLOSURES AND REPRESENTATIONS MADE BY ASSIGNOR TO ASSIGNEE, WHETHER WRITTEN OR ORAL, ARE TRUE, ACCURATE AND COMPLETE; AND
- (g) WITHOUT IN ANY WAY LIMITING THE FOREGOING, ASSIGNOR CERTIFIES THAT ASSIGNOR HAS NOT WITHHELD OR MISCHARACTERIZED TO ASSIGNEE ANY INFORMATION REGARDING ASSIGNOR, ASSIGNOR'S BACKGROUND, THE INTELLECTUAL PROPERTY, AND ANY FACTS AND CIRCUMSTANCES PERTAINING TO THE INTELLECTUAL PROPERTY.
- 6.2 ASSIGNOR SHALL INDEMNIFY AND HOLD HARMLESS ASSIGNEE AND ANY AFFILIATE OF ASSIGNEE FROM AND AGAINST ALL CLAIMS, DEMANDS, ACTIONS, LAWSUITS PROCEEDINGS, DAMAGES, INJURIES, EXPENSES, COSTS, AND ATTORNEYS' FEES RESULTING FROM, RELATING TO, CONCERNING OR IN CONNECTION WITH A BREACH OF ANY OF ASSIGNOR'S REPRESENTATIONS AND WARRANTIES.
- 6.3 ANY BREACH BY ASSIGNOR OF ANY REPRESENTATIONS, WARRANTIES, OR OBLIGATIONS OF THIS SECTION SHALL BE DEEMED HEREIN A MATERIAL BREACH.

7. RESOLUTION OF DISPUTES

- 7.1 If a dispute, controversy or claim ("DISPUTE") arises out of or relates to this AGREEMENT, or the breach thereof, the PARTIES agree to submit the DISPUTE to mediation to be administered by the American Arbitration Association in accordance with the local rules of the United States District Court for the Western District of North Carolina applicable to mediation. Mediation will be mandatory prior to resorting to arbitration.
- 7.2 If the DISPUTE is not settled or resolved by mediation, then the DISPUTE shall be settled by arbitration administered by the American Arbitration Association under its Patent Arbitration Rules before a panel of three arbitrators. The site of the arbitration shall be Charlotte, North Carolina, and any award rendered shall be binding and not appealable. The PARTIES agree that any award rendered by such arbitration may be filed in any court of competent jurisdiction for enforcement, but not for review or any other proceedings beyond enforcement.
- 7.3 The prevailing PARTY in arbitration shall be entitled to recover its reasonable costs, fees, and expenses that are directly associated with the arbitration and mediation. Such recovery shall be included in the arbitration award for enforcement through the judicial system.
- 7.4 Any award for ASSIGNEE against ASSIGNOR may include, in addition to or in substitution for monetary damages, specific performance by ASSIGNOR in accordance with one or more obligations of this AGREEMENT.
- 7.5 ANY AWARD FOR ASSIGNOR AGAINST ASSIGNEE SHALL BE LIMITED TO MONETARY DAMAGES ARISING DIRECTLY FROM THE DISPUTE AND IN NO EVENT SHALL AN AWARD TO ASSIGNOR INCLUDE ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFIT, REVENUE, OPPORTUNITY OR USE.

8. MISCELLANEOUS PROVISIONS

- 8.1 Notices. Any notices and communications required or permitted under this AGREEMENT shall be deemed made and delivered when actually received in writing by the receiving party, or three (3) days after being transmitted by registered or certified mail, return receipt requested, addressed to the receiving party. For purposes of notice, the notice address for ASSIGNEE shall be the address set forth in the preamble above, and the notice address for ASSIGNOR shall be the address first set forth below for ASSIGNOR. Any of the PARTIES may change its address by notice to the other PARTY in accordance with this paragraph.
- 8.2 Entire Agreement. This AGREEMENT constitutes the entire AGREEMENT between the PARTIES with respect to the subject matter hereof, and no modifications or revisions hereto shall have any force or effect unless made in writing and executed by all PARTIES. Any oral representations or agreements made prior to this AGREEMENT are hereby merged and superseded by this AGREEMENT.
- 8.3 Severance. In the event that any provision of this AGREEMENT is declared void or unenforceable, such provision shall be deemed severed from this AGREEMENT, and this AGREEMENT shall otherwise remain in full force and effect unless its purpose cannot be effected absent the severed provision.
- 8.4 Controlling Law. This AGREEMENT has been made and entered into in Mecklenburg County in the State of North Carolina and shall be interpreted and applied in accordance with the laws of the State of North Carolina. The PARTIES hereby consent to personal jurisdiction in the federal and state courts located in Mecklenburg County.
- 8.5 Binding Effect. This AGREEMENT shall be binding upon and inure to the benefit of the PARTIES as well as their respective successors, legal representatives, heirs, and assigns.
- 8.6 Relationship of the PARTIES. Nothing contained in this AGREEMENT shall be deemed or construed as creating an agency, joint venture, partnership, or franchise relationship between the PARTIES. Except as expressly set forth, no PARTY is, by virtue of this AGREEMENT, authorized as an agent, employee, or legal representative of any other PARTY.
- 8.7 No Third-Party Beneficiary. The provisions of this AGREEMENT are for the sole benefit of ASSIGNOR and ASSIGNEE only

and are not intended to convey any rights and benefits to any third party, nor shall this AGREEMENT be interpreted to convey any rights or benefits to any person except the PARTIES hereto.

8.8 No Implicit Obligations. ASSIGNOR acknowledges that no implicit obligations arise under this AGREEMENT, including but not limited to any obligations to commercialize, any obligations of confidentiality, and any obligations of nonuse or restrictions on use.

8.9 Assignment. ASSIGNOR may assign its rights and obligations under this AGREEMENT to another person or entity only with the prior written approval of ASSIGNEE, which approval shall not be unreasonably withheld. ASSIGNEE may assign its rights and obligations under this AGREEMENT to another person or entity without the prior written approval of ASSIGNOR.

8.10 Further Assurances. The PARTIES agree to execute such other documents and provide such further assurances, if any, as may be reasonably required from time to time to give effect to the provisions of this AGREEMENT.

The PARTIES have hereunto executed this AGREEMENT effective as of the day and year set forth below by ASSIGNEE (the "EFFECTIVE DATE").

ASSIGNEE

Edison Nation Product Company A, LLC (Affiliated Company of Edison Nation, LLC)

By: [Signature]
Authorized Signatory

Date

1/6/08

ASSIGNOR

F. Stanley BLACK SR BE SEEN! Solutions, LLC
Name Name of Company, if Applicable

[Signature] CEO / President
Signature Title, if Applicable

Date

12.21.07

Telephone Number

804-839-0637

Email Address

stan@be-seen.us

Street Address

5800 GATES Mill Court

City

Northham

State

VA

Zip

23112

☐ CHECK HERE IF THERE ARE SUPPLEMENTAL SIGNATURE PAGES

AND STATE NUMBER OF SUPPLEMENTAL PAGES: _____

DESCRIPTION OF PRODUCT SUBMISSION

Describe the product that is being submitted, including its structure and/or operation, if applicable. Attach sketches on a separate page, if applicable, that help to show how it works.

The product is a wall outlet-based night light that has the capability to project an image onto the wall above the night light.

All sketches and design data have been provided to Enventis at this time.

- *John D. [Signature]*

What distinguishes this product from other known products or techniques?

What were the circumstances surrounding how the product was created?

"IP LIST"

Please identify any patent, trademark and copyright properties that relate to the product, using additional sheets as necessary.

Nonprovisional, Provisional, and International Patent Applications and Patents:

Inventor	Serial Number	Filing Date	Title
.....
Inventor	Serial Number	Filing Date	Title
.....
Inventor	Serial Number	Filing Date	Title
.....

Common Law Trademarks:

Owner	Mark	Date of First Use	Goods or Services With Which Mark is Used
.....
Owner	Mark		
.....

Trademark Applications and Registrations:

Owner	Serial Number	Filing Date	Mark
.....
Owner	Serial Number	Filing Date	Mark
.....

Copyright Registrations:

Owner	Registration Number	Filing Date	Description of the Work
.....
Owner	Serial Number	Filing Date	Description of the Work
.....

Ⓢ All IP will be packaged and Forwarded to
Envelopes by our attorney, Jonathan Hunt
of Townsend, Townsend and Crew, LLP.

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