

Form PTO-1595 (Rev. 09-08)
OMB No. 0661-0027 (exp. 10/31/2008)

10-24-2008

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



103531681

To the Director of the U.S. Patent and Trademark Office, and to the appropriate Patent Office in the foreign countries or the new address(es) below.

10-22-08

1. Name of conveying party(ies)

I, Reich Family Limited Partnership

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

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

Execution Date(s) September 18, 2007

- Assignment Merger
- Security Agreement Change of Name
- Joint Research Agreement
- Government Interest Assignment
- Executive Order 9424, Confirmatory License
- Other Release of Security Interest/Agreement by Court Order

2. Name and address of receiving party(ies)

Name: SpectruMedix, LLC

Internal Address: _____

Street Address: 2124 Old Gatesburg Road

City: State College

State: Pennsylvania

Country: USA Zip: 16803

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)

B. Patent No.(s)

See attached.

Additional numbers attached? Yes No

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

Name: McQuaide, Blasko, Fleming & Faulkner, Inc.

Internal Address: Livinia N. Jones, Esquire

Street Address: 811 University Drive

City: State College

State: Pennsylvania Zip: 16801

Phone Number: 814-238-4926

Fax Number: 814-234-5620

Email Address: lnjones@mcblaw.com

6. Total number of applications and patents involved: 20

7. Total fee (37 CFR 1.21(h) & 3.41) \$ 800.00

- Authorized to be charged to deposit account
- Enclosed
- None required (government interest not affecting title)

8. Payment Information

Deposit Account Number 50-1740

Authorized User Name McQuaide Blasko

9. Signature:

Livinia N. Jones
Signature

October 22, 2008
Date

Livinia N. Jones, Esquire
Name of Person Signing

Total number of pages including cover sheet, attachments, and documents: 16

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

10/24/2008 DBYRNE 00000001 501740 5885430
01 FC:0021 800.00 DA

Continuation of Recordation Form Cover Sheet
1. Reich Family Limited Partnership to SpectruMedix, LLC

4(B) Patent Numbers

5,885,430
5,916,428
5,998,796
6,118,127
6,027,627
6,063,251
6,217,731
6,241,949
6,352,633
6,364,516
6,365,024
6,375,819
6,547,943
6,630,063
6,863,791
6,926,815
6,929,729
6,953,521
6,974,527
6,982,029



GRANTED

EFiled: Sep 18 2007 2:17 PM
Transaction ID 16349756
Case No. 2474-VCS

**IN THE COURT OF CHANCERY OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY**

I. REICH FAMILY LIMITED PARTNERSHIP,

Petitioner,

v.

SPECTRUMEDIX LLC,

Respondent,

and

PRIMERA BIOSYSTEMS, INC.,
IOWA STATE UNIVERSITY RESEARCH
FOUNDATION, INC. AND
JOSEPH K. ADLERSTEIN,

Intervenors.

Civil Action No. 2474-VCS

**ORDER (A) APPROVING THE ASSET PURCHASE AGREEMENT
BY AND BETWEEN SPECTRUMEDIX LLC AND THE APPLIED
BIOSYSTEMS GROUP OF APPLERA CORPORATION; (B) AUTHORIZING
THE SALE, ASSIGNMENT AND TRANSFER OF CERTAIN ASSETS
FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES
AND OTHER INTERESTS; AND (C) GRANTING RELATED RELIEF**

This matter is before the Court on the Motion of the Receiver of SpectruMedix LLC Seeking Approval of First Amended Plan of Liquidation, Including (A) the Sale of Substantially All Remaining Assets Free and Clear of All Liens, Claims, Encumbrances and Other Interests; (B) Payment of Professionals Fees and Other Expenses; (C) Distribution of Assets and (D) Discharge of the Receiver and for and Order Fixing a Hearing Thereon (the "Sale Motion"), filed on July 30, 2007 by Hobart G. Truesdell (collectively with any successor, the "Receiver"),

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acting in his capacity as the court-appointed receiver for the respondent in this action, SpectruMedix, LLC ("SMDX"),¹ for the entry of an order, pursuant to 10 Del. C. § 341, 6 Del. C. § 18-1104 and Court of Chancery Rules 148 to 168: (i) approving the Asset Purchase Agreement, dated March 29, 2007, as amended by the First Amendment to Asset Purchase Agreement, dated August 9, 2007 (collectively, as further amended from time to time, the "APA"), by and between the SMDX and Applera Corporation, through its Applied Biosystems Group ("ABG"), and such other agreements to be entered into and among the parties as contemplated therein;² (ii) authorizing the sale, assignment and transfer (the "Sale") of certain assets (collectively and as further described in the APA, the "Assets"),³ to ABG or its designee (the "Purchaser")⁴ free and clear of all liens, claims, encumbrances and other interests (all such liens, claims, encumbrances and other interests being referred to collectively herein as the "Liens"); and (iii) granting certain related relief; and the Court having heard statements of counsel and the evidence presented in support of the relief requested by the Receiver in the Sale Motion and at a hearing before the Court on September 17, 2007 (the "Sale Hearing"); and it appearing that the Court has jurisdiction over this matter; and it further appearing that the legal and factual bases set forth in the Sale Motion and at the Sale Hearing establish just cause for the relief granted herein; and after due deliberation thereon,

¹ References herein to SMDX shall include the Receiver where the Receiver is required or authorized to act on behalf of SMDX. References herein to the Receiver shall include SMDX or the receivership estate where the Receiver is acting or is authorized to act on behalf of SMDX or the receivership estate.

² A copy of the APA (without Exhibit 4.6 thereto, which is a form of this Order, and Exhibit 4.5 thereto, which is the form of the Primera Amendment) is attached hereto as Exhibit A and incorporated herein by reference. Unless otherwise stated, all capitalized terms not defined herein shall have the meanings given to them in the APA.

³ The Assets are described in greater detail in the APA and include the Intellectual Property.

⁴ As used herein, the term Purchaser includes any designee, successor or assign of ABG that may hold some or all of the Assets on or after the Closing Date.

THE COURT HEREBY FINDS AND DETERMINES THAT:⁵

Jurisdiction, Final Order and Statutory Predicates

A. This Court has jurisdiction to hear and determine the Sale Motion pursuant to the equitable powers of this Court under 10 Del. C. § 341, 6 Del. C. § 18-1104 and Court of Chancery Rules 148 to 168. Venue is proper in this Court pursuant to 10 Del. C. § 301.

B. This Order constitutes a final order. Notwithstanding Court of Chancery Rule 54(b), the Court expressly finds that there is no just reason for delay in the implementation of this Order, and expressly directs entry of judgment as set forth herein.

C. The statutory predicates for the relief requested in the Sale Motion are 10 Del. C. § 341, 6 Del. C. § 18-1104 and Court of Chancery Rule 158.

D. The APA and the transactions contemplated therein and in this Order are fully consistent with the rights, duties and powers of the Receiver as set forth in the statutory provisions referenced above and this Court's Amended Order Appointing Receiver, entered on December 1, 2006 (the "Receiver Order").

Notice of the Sale

E. Actual written notice of the Sale Motion, the Sale Hearing and the Sale, and a reasonable opportunity to object or be heard with respect to the Sale Motion and the relief requested therein, has been afforded to all interested persons and entities, including, but not limited to: (1) I. Reich Family Limited Partnership (the "Reich FLP"), the senior secured creditor of SMDX, the owner of the equity interests in SMDX and the petitioner herein, and its counsel; (2) Primera Biosystems, Inc. ("Primera"), the counterparty to the Primera Agreement

⁵ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law. All findings of fact and conclusions of law announced by the Court at the Sale Hearing in relation to the Sale Motion are incorporated herein to the extent not inconsistent herewith. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the conclusions of law set forth below constitute findings of fact, they are adopted as such.

and an intervenor herein, and its counsel; (3) Transgenomic, Inc. and its counsel; (4) Iowa State University Research Foundation, Inc. ("ISURF"), an intervenor herein; (5) Joseph K. Adlerstein ("Adlerstein"), an intervenor herein; (6) all known creditors or potential creditors of SMDX, as identified by the Receiver, and their counsel of record in this action; (7) all taxing authorities having jurisdiction over any of the Assets, including the Internal Revenue Service; (8) the Purchaser and its counsel; (9) all persons or entities known or reasonably believed to have asserted a Lien on any of the Assets; and (10) all other persons or entities that have expressed a potential interest in acquiring some or all of the Assets.

F. As evidenced by the certificates of service previously filed with this Court, proper, timely, adequate and sufficient notice of the Sale Motion, the Sale Hearing and the Sale has been provided in accordance with Court of Chancery Rule 158. The foregoing notice described in paragraphs E above was good, sufficient and appropriate under the circumstances, and no other or further notice of the Sale Motion, the Sale Hearing or the Sale is required.

G. The disclosures made by the Receiver concerning the APA, the Sale and the Sale Hearing were good, complete and adequate.

Good Faith of Purchaser

H. The Purchaser is not an insider of SMDX.

I. The Purchaser is purchasing the Assets in good faith and has proceeded in good faith in all respects and at all times in connection with this proceeding, as demonstrated by, among other things, the following: (1) the Purchaser recognized that the Receiver was free to deal with any other party interested in acquiring the Assets; (2) all payments to be made by the Purchaser and other agreements or arrangements entered into by the Purchaser in connection with the Sale have been disclosed; (3) the Purchaser and SMDX have no common identity of directors or controlling equity holders; and (4) the negotiation and execution of the APA and any

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other agreements or instruments related thereto was at arm's-length, without collusion and in good faith.

Reasonable Offer in the Best Interests of Creditors

J. The Receiver and SMDX have appropriately marketed the Assets for sale to potentially interested parties.

K. After marketing the Assets, the APA constitutes a fair and reasonable offer for the Assets and will provide a greater recovery for the SMDX's receivership estate than would be provided by any other available alternative. As such, the APA constitutes the highest and best available offer for the Assets under the circumstances. The Receiver's determination that the APA is a fair, reasonable and appropriate offer for the Assets constitutes a valid and sound exercise of the Receiver's business judgment.

L. Approval of the Sale Motion and the APA and the consummation of the transactions contemplated thereby is in the best interests of SMDX, its creditors, the receivership estate and other parties in interest.

No Fraudulent Transfer

M. The consideration provided by the Purchaser pursuant to the APA is fair and adequate and constitutes reasonably equivalent value and fair consideration under the laws of the United States, the state of Delaware and any other state, territory, possession or the District of Columbia.

Validity of Transfer

N. The Receiver has full corporate power and authority to execute and deliver the APA and all other documents contemplated thereby, and no further consents or approvals are required for the Receiver to consummate the transactions contemplated by the APA.

O. As of the Closing Date, the transfer of the Assets to the Purchaser will be a legal, valid and effective transfer of such assets, and will vest the Purchaser with all right, title and interest of SMDX to the Assets free and clear of all Liens accruing, arising or relating to any time prior to the Closing Date.

Free and Clear Sale Permitted

P. The Receiver may sell, assign and transfer the Assets to the Purchaser free and clear of all Liens against SMDX, the receivership estate or any of the Assets, with such Liens attaching solely to the net cash proceeds of the Sale in the order of their priority, with the same validity, force and effect (if any) that they now have against such Assets.

Q. Consistent with the foregoing, the Reich FLP has expressly consented to the Sale of the Assets free and clear of its Liens and has agreed to release such Liens on the Assets, which Liens will attached solely to the net cash proceeds of the Sale as described herein.

SMDX Licenses

R. SMDX acknowledges, and this Court finds, that (1) the Sequencer License Agreement, effective as of January 1, 2002, by and between SMDX and ABG, terminated pursuant to its terms no later than October 23, 2006, the date of submission of the original receivership order to the Chancery Court, and SMDX has no further rights thereunder; and (2) the license granted by ABG to SMDX in Article 2 of the Exclusive Cross-License and Reagent Authorization Agreement, made as of January 1, 2002 by and between SMDX and ABG (the "Cross-License Agreement"), has been validly terminated by ABG pursuant to a notice of termination dated January 19, 2007, and SMDX has no further rights thereunder. The licenses granted by SMDX to ABG pursuant to the Cross-License Agreement survive such termination and remain in full force and effect.

NOW, THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

General Provisions

1. The relief requested in the Sale Motion is granted and approved in all respects, and the APA and the Sale contemplated thereby are approved as set forth in this Order.

2. All objections to the Sale Motion or the relief requested therein that have not been withdrawn, waived or settled as announced to the Court at the Sale Hearing or by stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits or the interests of such objections have been otherwise satisfied or adequately provided for in this Order.

Approval of the APA

3. The APA and all ancillary documents, and all of the terms and conditions thereof, are hereby approved. Notwithstanding anything in the APA to the contrary, the Receiver shall deliver to ABG, as a condition to the Closing, evidence satisfactory to ABG that the settlement payment of \$225,000 has been paid to ISURF pursuant to the Settlement Agreement dated August 7, 2007 by and among, ISURF, SMDX, the Receiver, Reich FLP, Ilan Reich and ABG.

4. The Receiver is authorized, empowered and directed to take any and all actions necessary or appropriate to: (a) consummate the sale, assignment or transfer of each of the Assets to the Purchaser pursuant to and in accordance with the terms and conditions of the APA; (b) close the Sale as contemplated in the APA and this Order; and (c) execute and deliver, perform under, consummate, implement and close fully the transactions contemplated by the APA, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the APA and the Sale, including any other ancillary

documents, or as may be reasonably necessary or appropriate to the performance of the obligations as contemplated by the APA and such other ancillary documents and this Order.

5. Expenses advanced by ABG on behalf of SMDX and its receivership estate pending the Closing, including \$38,657.35 incurred ABG for the preparation, filing, prosecution and maintenance of SMDX's patent rights, shall be reimbursed by the Receiver by a deduction from the Purchase Price at Closing or otherwise from assets of the receivership estate.

6. The terms and provisions of this Order shall be binding in all respects upon: (a) the Receiver; (b) SMDX and the receivership estate; (c) all creditors of, and holders of equity interests in, SMDX (whether known or unknown); (d) any holders of Liens against or on all or any portion of the Assets; (e) Primera, Transgenomic Inc., ISURF, Adlerstein and all other parties that have or had commercial or contractual relationships with SMDX, including the Employees; (f) trustees, if any, subsequently appointed in any case commenced by or against SMDX under title 11 of the United States Code; and (g) the Purchaser. The APA shall not be subject to rejection, abrogation or termination by the Receiver.

Transfer of the Assets

7. Pursuant to the Receiver Order, 10 Del. C. § 341 and 6 Del. C. § 18-1104, the Receiver is authorized to sell, assign and transfer the Assets to the Purchaser on the Closing Date on the terms set forth herein and in the APA. Such Assets shall be transferred to the Purchaser upon and as of the Closing Date and such transfer shall constitute a legal, valid, binding and effective transfer of such Assets and, upon the Receiver's receipt of the Purchase Price, shall be free and clear of all Liens, with all such Liens to attach solely to the net cash proceeds of the Sale with the same validity, priority, force and effect (if any) that they now have as against such Assets, subject to any claims and defenses that the Receiver, SMDX and the receivership estate may possess with respect thereto. For the avoidance of doubt, all of Reich

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FLP's rights with respect to the Assets under that certain Patent Collateral Security Agreement entered into as of March 29, 2002, by and between SMDX and the Reich FLP and that certain Loan Agreement entered into as of March 29, 2002, by and between SMDX and the Reich FLP shall be terminated as of the Closing.

8. Except as expressly permitted or otherwise specifically provided by the APA or this Order, all persons and entities holding Liens or interests in the Assets or in connection with or in any way relating to the Receiver, SMDX, the Assets, the operation of SMDX's businesses prior to the Closing Date or the transfer of the Assets to the Purchaser, hereby are forever barred, estopped and permanently enjoined from asserting such persons' or entities' Liens or interests in and to the Assets against the Purchaser or its successors or assigns, their property or the Assets. To the extent that such creditors do not take all other actions as may be necessary to release Liens on or interests in the Assets, if any, as provided for herein, the Receiver is hereby authorized and directed, and the Purchaser is hereby authorized, to execute and file such statements, instruments, releases and other documents on behalf of such person or entity with respect to the Assets.

9. A certified copy of this Order may be filed or recorded with the applicable agency, recorder, registry or other governmental body as evidence of the cancellation and extinguishment of any of the Liens and other encumbrances of record with respect to the Assets.

Termination of the Primera Agreement

10. By an agreement of Primera, the Reich FLP, the Receiver and SMDX dated August 8, 2007 and attached hereto as Exhibit B (the "Termination Agreement"), the Technology Development and License Agreement between SMDX and Primera, dated September 11, 2006 (the "Primera Agreement") shall be terminated as of the Closing Date. Such termination will constitute a "Complete Termination" as defined in the APA. The Termination

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Agreement is expressly approved and determined to be binding on the Receiver, SMDX and SMDX's receivership estate.

No Assumption of SMDX Liabilities

11. Except as otherwise expressly provided for in this Order or the APA, the Purchaser shall not assume, and shall not have or be responsible for, any liability or other obligation of SMDX. Without limiting the generality of the foregoing, and except as otherwise specifically provided herein or in the APA, the Purchaser shall not be liable for any claims against SMDX or any of its predecessors or affiliates, and the Purchaser shall not have any successor or vicarious liabilities of any kind or character, including, but not limited to, any theory of antitrust, environmental, successor or transferee liability, labor law, *de facto* merger or substantial continuity, whether known or unknown as of the Closing Date, now existing or hereafter arising, whether fixed or contingent, with respect to SMDX or any obligations of SMDX arising prior to the Closing Date, including, but not limited to, liabilities on account of any taxes arising, accruing or payable in connection with or in any way relating to the Assets prior to the Closing. For the avoidance of doubt, Purchaser is not assuming any liabilities or obligations under or related to the Confidentiality and Non-Competition Agreements. The Purchaser has given substantial consideration under the APA for the benefit of the holders of Liens. The consideration given by the Purchaser shall constitute valid and valuable consideration for the releases of any potential claims of successor liability of the Purchaser, which releases shall be deemed to have been given in favor of the Purchaser by all holders of Liens against SMDX or the Assets.

Releases

12. The form of release attached as Exhibit 6.2(a)(v) to the APA is expressly approved and determined to be binding on the Receiver, SMDX and SMDX's receivership estate.

Other Provisions

13. Effective upon the Closing Date, all persons and entities are forever prohibited and permanently enjoined from commencing or continuing in any manner any action or other proceeding, whether in law or equity, in any judicial, administrative, arbitral or other proceeding against the Purchaser, its successors and assigns, or the Assets, with respect to (a) any Liens on, in connection with or in any way relating to the Receiver, SMDX, the Assets, the operation of SMDX's businesses prior to the Closing Date or the transfer of the Assets to the Purchaser; (b) any liabilities or obligations not expressly assumed by the Purchaser under this Order or the APA or (c) any theory of continuing or successor liability.

14. The transactions contemplated by the APA are undertaken by the Purchaser without collusion and in good faith. The Purchaser is a good faith purchaser and is entitled to all the protections afforded by any applicable law to those who act and purchase in good faith.

15. Pursuant to Court of Chancery Rule 62, this Order shall be effective immediately upon entry and SMDX and the Purchaser are authorized to close the Sale immediately upon entry of this Order.

16. There are no brokers involved in consummating the Sale and no brokers' commissions are due.

17. The failure specifically to include any particular provision of the APA in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the APA be authorized and approved in its entirety.

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18. The APA and any related agreements, documents or other instruments may be modified, amended or supplemented by the parties thereto and in accordance with the terms thereof, without further order of the Court, provided that any such modification, amendment or supplement does not have a material adverse effect on the receivership estate.

19. The Court shall retain jurisdiction to, among other things, interpret, implement and enforce the terms and provisions of this Order and the APA, all amendments thereto and any waivers and consents thereunder and each of the agreements executed in connection therewith to which SMDX is a party, and to adjudicate, if necessary, any and all disputes concerning or relating in any way to the Sale.

DATE: September ____, 2007

SO ORDERED:

VICE CHANCELLOR

This document constitutes a filing of the court and should be treated as such

Court: DE Court of Chancery

Judge: Leo E Strine

File & Serve

Transaction ID: 16346519

Current Date: Sep 18, 2007

Case Number: 2474-VCS

Case Name: Reich Family LP vs SpectruMedix LLC

/s/ Judge Leo E Strine