

**PATENT ASSIGNMENT**

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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
CONVEYING PARTY DATA	
Name	Execution Date
Euoplak	08/06/2008
RECEIVING PARTY DATA	
Name:	Accessburg
Street Address:	50 Sentier de la Planche
City:	Sevrier
State/Country:	FRANCE
Postal Code:	74320
PROPERTY NUMBERS Total: 4	
Property Type	Number
Application Number:	10048433
Application Number:	10444162
Application Number:	11008433
Application Number:	11587033
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ATTORNEY DOCKET NUMBER:	BDM-1-A
NAME OF SUBMITTER:	Carol Coney

CH \$160.00 10048433

**Total Attachments: 11**

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APPENDIX 4

AGREEMENT

RELATING TO THE ASSIGNMENT OF THE GASTRIC BAND PATENTS

BETWEEN THE UNDERSIGNED

EUROPLAK, a French *Société par actions simplifiée* with a share-capital of 150,000 euros, whose registered office is located at Pouverel, 842 Avenue du 8 Mai 1945 - 83130 La Garde, registered with the Commercial and Companies Registry of Toulon and identified with repertory SIREN under number 414.683.854, represented by Mr Dan R. LEE, acting as President, who declares to be duly empowered for the purposes thereof,

Hereinafter referred to as the "Assignor" or "EUROPLAK"

ON THE ONE HAND

AND

Mr Richard WALLACE, born on 21 August 1961 in Son En Breugel (Netherlands), a British citizen, residing at Bastide de la Fauville - 83590 GONFARON, France, represented by Mr Gérard SASSI who declares to be duly empowered for the purpose hereof by a special power of attorney,

Mr Gérard SASSI, born on 10 September 1952 in Toulon (Var), a French citizen, residing at "Les Mimosas", 106 Boulevard Coste Chaude - 83200 TOULON, France,

Mr Anton SINDALI, born on 1st July 1952 in Corte (Upper Corsica), a French citizen, residing at 1445, Corniche Escartefigue - 83200 TOULON, France, represented by Mr Gérard SASSI who declares to be duly empowered for the purpose hereof by a special power of attorney,

acting as founding shareholders on behalf of and for the account of ACCESSURG a French *Société par actions simplifiée* in the course of being formed with a share-capital of €260,000 whose registered office is located at 50 Sentier de la Planche 74320 SEVRIER, to be registered with the Commercial and Companies Registry of Toulon,

ACCESSURG being a company controlled by Mr Richard WALLACE, Mr Gérard SASSI, Mr Anton SINDALI as defined by Article L.233-3 paragraph 1 of the French Commercial Code

Mr Richard WALLACE, Mr Gérard SASSI, Mr Anton SINDALI and ACCESSURG being hereinafter collectively referred to as the "Assignee"

IT HAS BEEN RECALLED AS FOLLOWS:

1. The co-ownership composed of Mr Richard CANCEL, Mr Richard WALLACE and Mr Gérard SASSI developed the following four patents related to the so-called "Gastric Band" :

- (a) the "GB 1<sup>st</sup> PATENT" relating to "*Gastric band device for forming a restricted ostomy opening in the stomach so as to limit the intake of food towards a lower digestive part thereof*" and all other patents, pending applications and related intellectual property rights (N° 99/10206, the PCT Pub. No.: WO01/10359; the European Patent N° 1198211, the U.S. Application N° 10/048,433);
- (b) the "GB 2<sup>nd</sup> PATENT" relating to "*Method and device for remote and non connected implementation of an implant and implant implemented by said device*" and all other patents, pending applications and related intellectual property rights (N° 00/15140, the PCT Pub. N° WO02/41945, the European Patent N°1335775 validated in Belgium, Germany , Spain, France, United Kingdom and Italy the U.S. Application N° 10/444,162 and the U.S. Publication N° US-2003-0225440);
- (c) the "GB 3<sup>rd</sup> PATENT" relating to "*System for treating obesity and implant for a system of this type*" and all other patents, pending applications and related intellectual property rights (N° 02/07283 and 03/01619, PCT Pub. N° WO03/105732; the European Patent N° 1519698, the U.S. Application N° 11/008,433 and U.S. Publication N° US-2005-0165440-A1);
- (d) the "GB 4<sup>th</sup> PATENT" relating to "*Motorized gastric ring device comprising at least a reception antenna for power, wireless device and data transfer*" and all other patents, pending applications and related intellectual property rights (N° 04/04223 and PCT Pub. N° WO05/105001);

these four patents being collectively referred to as the "Gastric Band Patents";

2. By a deed of assignment dated 29 March 2005, Mr Richard CANCEL assigned all his one third interest in the aforesaid co-ownership to Mr Anton SINDALI;
3. Pursuant to a deed dated 30 August 2006, the co-ownership composed of Mr Richard WALLACE, Mr Gérard SASSI and Mr Anton SINDALI assigned to EUROPLAK the Gastric Band Patents together with other patents rights;
4. Pursuant to a deed dated 27 September 2006, Mr Richard WALLACE, Mr Gérard SASSI and Mr Anton SINDALI representing all the shareholders of EUROPLAK transferred, with effective date as of 2<sup>nd</sup> October 2006, all the 1,500 shares constituting the share capital of EUROPLAK to MICROTEK MEDICAL HOLDING B.V., a limited liability company duly organized under the laws of The Netherlands, having its registered offices at Gerritsenweg 7, 7202 BP ZUTPHEN, THE NETHERLANDS;
5. Mr Richard WALLACE, Mr Gérard SASSI, Mr Anton SINDALI acting on behalf of the Assignor negotiated and concluded with ANVAR which has become OSEO innovation a reimbursable advance granted to Assignor for the purpose of financing the development of the Gastric Band Patents;

6. This being recalled, Mr Richard WALLACE, Mr Gérard SASSI, Mr Anton SINDALI are willing to purchase back from EUROPLAK through ACCESSURG all the Gastric Band Patents under the following terms and conditions of this Agreement and EUROPLAK is willing to consent to such sale back under the same following terms and conditions;

THIS HAVING BEEN RECALLED, IT WAS THEN AGREED WHAT FOLLOWS:

ARTICLE 1. ASSIGNMENT

Subject to the occurrence of the condition precedent provided for by Article 6.1 or alternatively subject to the payment of the consideration provided for by Article 6.2 within the specified time-limit, the Assignor hereby sells, transfers and conveys, under the terms and conditions set forth in this Agreement to the Assignee, who accepts, all rights of ownership and use it holds on the following Gastric Band Patents which are further described in the APPENDIX 1 attached to this Agreement and which the Assignee declare to know perfectly for having been the former assignor of the Gastric Band Patents to the Assignee :

- (a) the "GB 1<sup>st</sup> PATENT" relating to "*Gastric band device for forming a restricted ostomy opening in the stomach so as to limit the intake of food towards a lower digestive part thereof*" and all other patents, pending applications and related intellectual property rights (N° 99/10206, the PCT Pub. No.: WO01/10359; the European Patent N° 1198211, the U.S. Application N° 10/048,433);
- (b) the "GB 2<sup>nd</sup> PATENT" relating to "*Method and device for remote and non connected implementation of an implant and implant implemented by said device*" and all other patents, pending applications and related intellectual property rights (N° 00/15140, the PCT Pub. N° WO02/41945, the European Patent N°1335775 validated in Belgium, Germany, Spain, France, United Kingdom and Italy the U.S. Application N° 10/444,162 and the U.S. Publication N° US-2003-0225440);
- (c) the "GB 3<sup>rd</sup> PATENT" relating to "*System for treating obesity and implant for a system of this type*" and all other patents, pending applications and related intellectual property rights (N° 02/07283 and 03/01619, PCT Pub. N° WO03/105732; the European Patent N° 1519698, the U.S. Application N° 11/008,433 and U.S. Publication N° US-2005-0165440-A1);
- (d) the "GB 4<sup>th</sup> PATENT" relating to "*Motorized gastric ring device comprising at least a reception antenna for power, wireless device and data transfer*" and all other patents, pending applications and related intellectual property rights (N° 04/04223 and PCT Pub. N° WO05/105001).

ARTICLE 2. CONSEQUENCES OF THE ASSIGNMENT

As a consequence of this assignment and subject to the occurrence of the condition precedent provided for by Article 6.1 or alternatively subject to the payment of the consideration provided for by Article 6.2 within the specified time-limit, the Assignee shall be fully and definitively subrogated in the intellectual property rights of the Assignor relating to the Gastric Band Patents described in Article 1 so that, as from the date when such condition precedent or 6.2 payment will occur, the Assignee will have

solely the entire ownership and the full right to use such intellectual property rights relating to Gastric Band Patents and to dispose of them or to use them as it deems fit.

ARTICLE 3. REPRESENTATIONS AND WARRANTIES OF ASSIGNOR

3.1 The Assignor hereby represents that at the date of the execution of this Agreement and until the date of the assignment:

- no license has been granted and shall be granted with respect to the Gastric Band Patents;
- the Gastric Band Patents have not been and shall not be the subject matter of any assignment of rights.

3.2 This assignment shall be made without no other representation and warranty than as to the material existence of the intellectual property rights relating to the Gastric Band Patents as listed in APPENDIX 1, the Assignee acknowledging expressly that the Gastric Band Patents and their related existing intellectual property rights are perfectly known by the Assignee in view of the fact:

- that Mr Richard WALLACE, Mr Gérard SASSI, Mr Anton SINDALI initially assigned as members of a co-ownership all the intellectual property rights relating to the Gastric Band Patents to EUROPLAK by a deed dated 30 August 2006 and
- that subsequently they developed further these Gastric Band Patents within EUROPLAK (i) as controlling shareholders until 2 October 2006, date of their sale of all the EUROPLAK shares to MICROTEK HOLDING BV and (ii) since this latter date until this day, as Research Co-Managers.

ARTICLE 4. EXISTING PLEDGES

The Assignee represents and acknowledges that the Assignee has been duly informed by the Assignor of the existence of the following pledges likely to affect the intellectual property rights relating to the Gastric Band Patents:

1. Pledges of the Gastric Band Patents granted pursuant to a deed dated 2 May 2006 by the co-ownership composed of Mr Richard WALLACE, Mr Gérard SASSI and Mr Anton SINDALI to the benefit of MICROTEK MEDICAL HOLDING B.V., the Assignor undertaking to cause MICROTEK MEDICAL HOLDING B.V. to execute all documents which may be required for the full release of such pledges to the extent strictly necessary, all the related formalities with all competent administrations and agencies being carried on under the sole responsibility and at the sole cost of the Assignee;
2. Pledges of the EUROPLAK going concern to the extent of amounts respectively of [REDACTED] and of [REDACTED], such pledges being registered in the name and for the benefit of the SOCIÉTÉ GÉNÉRALE as guarantee for two loans of same amounts granted to EUROPLAK, the Assignor undertaking to carry on what is feasible in order to obtain from SOCIÉTÉ

GÉNÉRALE confirmation that it does not object to the assignment of Gastric Band Patents by the Assignor to the Assignee.

ARTICLE 5. PRICE AND CONSIDERATION FOR THE ASSIGNMENT OF THE GASTRIC BAND PATENTS

5.1. The sale and purchase of the Gastric Band Patents shall be made by the Assignor and accepted by the Assignee for the following consideration:

- a) price of [REDACTED] payable on this day and
- b) assumption by the Assignee - effective as from the date of execution of a assignment addendum( the "Assignment Addendum") between the Assignor, the Assignee and OSEO innovation (execution which must take place immediately when the condition precedent provided for by Article 6 will occur at the diligence of the Assignee) of all the Assignor's obligations under the ANVAR / OSEO advance contract relating to the innovation program n° A0407 019U dated 5 April 2005 relating to the grant of a reimbursable advance amounting to [REDACTED] for the purpose of financing the "Preparation of the industrial launching of the motorized gastric band for the treatment of obesity" (the "ISEO Advance"), a copy of which is attached as APPENDIX 5.

Consequently, as from the date of execution of the Assignment Addendum, the Assignor must be fully and definitively released by OSEO innovation from all its obligations under the OSEO Advance as a consequence of the OSEO innovation 's approval of the assignment provided for by Article 6, it being specified that the full and definitive Assignor's release from its obligations under the OSEO Advance is a substantial condition without which the assignment of the Gastric Band Patents would not have been accepted otherwise by the Assignor.

The Assignee represents and acknowledges that the Assignee is fully informed of all the terms and conditions of the OSEO Advance for having negotiated and concluded such terms and conditions on behalf of the Assignor vis à vis OSEO innovation and that he accepts all these terms and conditions without any reservation.

5.2. Simultaneously with the assignment of the Patents Relating to the Gastric Band, the Assignor shall transfer to the Assignee in consideration for a price of [REDACTED] the means necessary for the continuation of the program, i.e. the prototypes which have made and financed in the framework of the innovation programs n° A0001024U (Remote controlled motorized gastric band implantable for the treatment of morbid obesity) and n° A0407 019U (Preparation of the industrial launching of the motorized gastric band for the treatment of obesity) and which are recorded in the accounts of the Assignor in the account n° 21540300 entitled " *Band Console Equipment*".

**ARTICLE 6. APPROVAL BY OSEO INNOVATION OF THE ASSIGNMENT WITH ASSUMPTION OF THE OSEO ADVANCE AS CONDITION PRECEDENT FOR THE ASSIGNMENT OR ALTERNATIVELY PAYMENT BY THE ASSIGNEE TO THE ASSIGNOR OF AN AMOUNT OF €200,000 CORRESPONDING TO THE OSEO ADVANCE**

6.1. Unless the provisions of Article 6.2 apply, the sale and purchase of the Gastric Band Patents is subject to the condition precedent that OSEO innovation and the Regional Council of the PACA Region as grantors of the reimbursable advance to the Assignor will duly approve, as required under the terms and conditions of the OSEO Advance, the assignment of the Gastric Band Patents by the Assignor to the Assignee under the terms and conditions provided for by this Agreement and in particular subject to the Assignee being authorized by OSEO innovation and the Regional Council of the PACA Region to be assigned the Gastric Band Patents and to assume and to take over all the obligations of the OSEO Advance vis à vis OSEO innovation (together with the assignment of the related rights of the OSEO Advance).

The application for the grant of the required authorizations from OSEO innovation and the Regional Council of the PACA Region will be prepared, filed and followed up under the sole responsibility of the Assignee and at its exclusive cost, the Assignee justifying from time to time vis à vis the Assignor its good diligence and best efforts in order to obtain such required authorizations.

This condition precedent must be met as soon as feasible and not later than 31 December 2008.

Should this condition precedent be not be met on 31 December 2008 at the latest, this Agreement will become null and void, without right to indemnity of either Party vis à vis the other Party.

6.2. The assignment of the Patents Relating to the Gastric Band may be made without being subject to the condition precedent provided for by Article 6.1 immediately upon the payment in full by the Assignee to the Assignor by wire transfer of an amount of [REDACTED] corresponding to the total amount of the OSEO Advance, such payment being the consideration for the assignment of the Patents Relating to the Gastric Band, such consideration replacing the consideration provided for by Article 5.1 which will not apply in such a case, and this subject however to the express condition that such payment in full of the amount of [REDACTED] shall be made not later than 31 December 2008, what is acknowledged and accepted by the Assignee.

**ARTICLE 7. UNDERTAKING OF ASSIGNOR NOT TO CARRY ON ACTIVITIES RELATING TO THE PATENTS ASSIGNED**

Subject to the completion of the assignment as provided for by Article 5.1 or alternatively as provided for by Article 6.2 the Assignor undertakes to abstain, directly or indirectly, from any operation, manufacturing or sale of products falling within the scope of the Gastric Band Patents protection.

**ARTICLE 8. UNDERTAKING OF ASSIGNEE TO REIMBURSE TO ASSIGNOR ALL EXPENSES INCURRED WITH RESPECT TO THE PATENTS ASSIGNED**

The Assignee undertakes expressly to assume upon the completion of the assignment as provided for by Article 5.1 or alternatively as provided for by Article 6.2 and as substantial condition of the assignment without which it could not take place unless the Assignor elects to waive such condition, the costs incurred by the Assignor with respect to the Patents Related to the Gastric Band as of 1st



August 2008 upon production by the Assignor of the supporting documents, these costs including in particular the annuities payable for the Patents Relating to the Gastric Band and the fees and expenses of the IP law-firm BREDEMA related to the Patents Relating to the Gastric Band and this with respect to the period running as from 1st August 2008.

**ARTICLE 9. GUARANTEES GIVEN TO THE ASSIGNOR BY M. WALLACE, M. SASSI AND M. SINDALI AS TO ACCESSURG**

Mr Richard WALLACE, Mr Gérard SASSI and Mr Anton SINDALI as founding shareholders of ACCESSURG guarantee as porte-fort that this company will be controlled by them in the meaning of the provisions of Article L.233-3 paragraph 1 of the French Commercial Code and as an essential condition – without which the assignment subject matter of this Agreement would otherwise not have been accepted by the Assignor – jointly and severally guarantee vis à vis the Assignor all commitments and duties of ACCESSURG and ACCESSURG's full performance of all its obligations as Assignee under this Agreement.

**ARTICLE 10. GOVERNING LAW AND JURISDICTION**

This Agreement shall be governed by the laws of France.

Any dispute arising between the Parties in connection with the formation, the interpretation and the performance of this Agreement shall be submitted to the exclusive jurisdiction of the Tribunal de Grande Instance de Paris.

**ARTICLE 11. POWERS FOR THE PUBLICITY FORMALITIES AS A CONSEQUENCE OF THE ASSIGNMENT**

Full powers are conferred to the holder of an original of this Agreement to file a copy of such original with the Patents National Registry (*Registre National des Brevets*) held by the National Institute of Industrial Property (*Institut National de la Propriété Industrielle*), the European Patent Registry (*Office Européen des Brevets*) or any other international patent registry and more generally to carry out any other relating formalities required so as to make enforceable vis à vis third parties the assignment which is the subject matter hereof.

The Assignor shall execute all required documents for the purpose of such formalities.

Such formalities will be carried on under the sole responsibility of the Assignee and at the sole cost of the Assignee.

Made in two (2) original copies including one original for the Assignor and one original for the Assignee

At Sea Grove, Florida  
On 6 August 2008

Dan R. Lee

EUROFLAK  
Represented by Mr Dan R. LEE

At \_\_\_\_\_  
On \_\_\_\_\_

Mr Richard WALLACE

At \_\_\_\_\_  
On \_\_\_\_\_

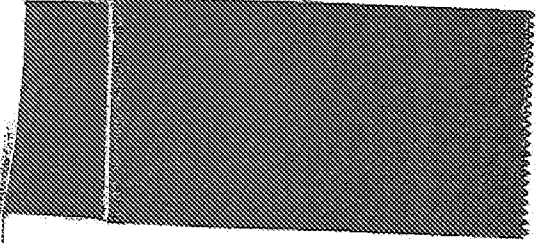
Gérard SASSI

Mr Gérard SASSI

At \_\_\_\_\_  
On \_\_\_\_\_

Mr Anton SINDALI

En accord entre les parties, les  
assises ont été reprises par le  
ASSEMBLÉES  
tant toute substitution ou  
sont également signés  
page.



APPENDIX 1  
DESCRIPTION OF THE GASTRIC BAND PATENTS

## DESCRIPTION OF THE GASTRIC BAND PATENTS

« Patent « AGM 1<sup>st</sup> Patent »

*Dispositif télécommandé de bande gastrique pour former une ouverture restreinte de stoma dans l'estomac  
(Gastric band radio controlled device for "stoma" reduced opening of stomach)*

FRANCE

Date of filing: 05/08/1999  
Filing registration number: 99/10206  
Date of publication: 09/02/2001  
Publication number: 2797181  
Registration date: 03/05/2002  
Registration number: 99/10206

« Patent « AGM 2<sup>nd</sup> Patent »

*Dispositif de mise en œuvre à distance et sans lien matériel d'un implant mis en œuvre par ce dispositif  
(Radio controlled device of implant set up)*

FRANCE

Date of filing: 23/11/2000  
Filing registration number: 00/15140  
Date of publication: 24/05/2002  
Publication number: 2816828  
Registration date: 22/10/2004  
Registration number: 00/15140

« Patent "AGM 3<sup>rd</sup> Patent" »

*Système pour le traitement de l'obésité et implant pour un tel système  
(System for obesity treatment and related implant)*

FRANCE

Date of filing: 13/06/2002  
Filing registration number: 02/07283  
Date of publication: 19/12/2003  
Publication number: 2840803  
Registration date: 16/07/2004  
Registration number: 02/07283

FRANCE

Date of filing: 11/02/2003  
Filing registration number: 03/01619  
Date of publication: 19/12/2003  
Publication number: 2840804  
Registration date: 17/09/2004  
Registration number: 03/01619

« Patent » ACM 4<sup>th</sup> Patent »

*Dispositif de cerclage gastrique ou « anneau gastrique » motorisé comportant au moins une antenne de réception désorientée pour l'alimentation, la commande à distance et l'envoi de données, par induction  
(Motorised device gastric band including antenna for telecommand and data transfer)*

FRANCE

Date of filing: 21/04/2004

Filing registration number: 04/04223

Date of publication: 28/10/2005

Publication number: 2869218

PATENT

RECORDED: 06/08/2009

REEL: 022791 FRAME: 0065