

10-22-09

RE

10-23-2009



103578409

To the Hon. Commissioner of Patents and Trademarks: Please record the attached original document or copy thereof.

1. Name of conveying party:

ZOUNDS, INC.
a Delaware Corporation having its
principal place of business at
1630 South Stapley Drive · Suite 100
Mesa, AZ 85204 U.S.A.

2. Name and Address of receiving Party:

ZOUNDS, LLC (formerly Zounds Acquisition LLC)
a Delaware Corporation having its
principal place of business at
4405 E. Baseline Road · Suite 114
Phoenix, AZ 85042 U.S.A.

3. Nature of conveyance:

☐

Assignment

☐

Change of Name

Other: **Transfer of assets in bankruptcy**

☐

Security Agreement

☐

Merger

Execution Date: **September 9, 2009**

4. Application number(s) or patent number(s). Additional sheet attached? ☒ Yes ☐ No

If this document is being filed together with a new application, the execution date of the application is:

Date:

A. Patent Application No(s).

Filed

B. Patent No(s).

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

Paul F. Wille
6407 East Clinton Street
Scottsdale, Arizona 85254

6. Total number of applications and patents involved:

17

7. Total fee (37 CFR 3.41).....\$ **680.00**

☒

Enclosed

☐

Authorized to be charged to deposit account

8. Deposit account number (Attach duplicate copy of this form if paying by deposit account):

DO NOT USE THIS SPACE

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Paul F. Wille

Name of person signing

Paul F. Wille

Signature

October 19, 2009

Total number of pages including cover sheet, attachments, and document: 12

Serial No.	Filing Date	Attorney Reference No.
11/270,289	Nov 9, 2005	99743. 011

Rechargeable Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
11/357,362	Feb 17, 2006	99743. 013

Method for Identifying a Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
11/357,913	Feb 17, 2006	99743. 014

Method for Identifying a Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
11/357,903	Feb 17, 2006	99743. 015

Method for Testing Using a Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
11/357,367	Feb 17, 2006	99743. 016

Method for Communicating with a Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
11/357,450	Feb 17, 2006	99743. 017

Method for Calibrating a Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
11/805,187	May 22, 2007	99743. 019

Modular Charger for Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
12/001,247	Dec 11, 2007	99743. 020

Attenuating Tip for Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
12/072,148	Feb 25, 2008	99743. 021

RF Power Supply for Hearing Aids

Serial No.	Filing Date	Attorney Reference No.
12/082,164	Apr 9, 2008	99743. 022

Quasi-Permanent Battery for Hearing Aids

Serial No.	Filing Date	Attorney Reference No.
12/152,751	May 16, 2008	99743 . 023

Solar Powered Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
12/154,464	May 23, 2008	99743 . 024

Light Powered Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
12/154,963	May 28, 2008	99743 . 025

Maintenance Station for Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
12/214,898	Jun 23, 2008	99743 . 026

Hearing Aid with Capacitive Switch

Serial No.	Filing Date	Attorney Reference No.
12/290,503	Oct 31, 2008	99743 . 027

System for Managing Feedback

Serial No.	Filing Date	Attorney Reference No.
12/231,182	Aug 29, 2008	99743 . 028

Wireless Gateway for Hearing Aid

Serial No.	Filing Date	Attorney Reference No.
12/286,939	Oct 3, 2008	99743 . 029

Open Tip for Hearing Aid



Dated: September 09, 2009



GEORGE B. NIELSEN, JR.
U.S. Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
DISTRICT OF ARIZONA

In re

ZOUNDS, INC.,

Debtor.

Chapter 11

Case No. 2:09-bk-06053-GBN

**STIPULATED ORDER AUTHORIZING
THE SALE OF PROPERTY OF THE
ESTATE UNDER BANKRUPTCY CODE
§ 363 AND THE ASSUMPTION AND
ASSIGNMENT OF EXECUTORY
CONTRACTS AND LEASES UNDER
BANKRUPTCY CODE § 365**

This matter is before the Court on the *Motion For: (A) Order Authorizing The Sale Of Substantially All Property Of The Estate Under Bankruptcy Code § 363 And The Assumption And Assignment Of Executory Contracts And Leases To Buyer Under Bankruptcy Code § 365; And (B) Emergency Order Approving Sale Procedures* filed on August 5, 2009 (the “**Motion**”) by Zounds, Inc., the debtor-in-possession in this Chapter 11 case (the “**Debtor**”). Objections to the Motion were filed by the Maricopa County Treasurer, the Official Committee of Unsecured Creditors, a group of secured noteholders, with joinders in objections filed by John Costello and a group of noteholders known as the Bridges Group (collectively, other than Maricopa County Treasurer, the “**Objectors**”). After consideration of the Motion and a hearing (the “**Sale Hearing**”) having been held on September 3, 2009 at which statements of counsel for the Debtor,

the Objectors, and the DIP Lenders* were heard and Qualified Bids were considered, a public sale was conducted for the sale of the Assets, and the highest and best bidder identified, the Court finds that: (a) notice of the Motion and the Bid Procedures was adequate under the circumstances and no further notice is necessary; (b) Zounds Acquisition, LLC, a newly-formed Delaware limited liability company whose initial members are the DIP Lenders (the “**Buyer**”) has been identified as the prevailing bidder for the Assets in accordance with the Bid Procedures and its bid is the highest and best offer for the Assets; (c) an immediate sale of the Assets to the Buyer and the Debtor’s assumption and assignment to Buyer of the contracts and leases listed on Exhibit B to the Motion is in the best interests of the estate and creditors; (d) the Buyer and the Debtor negotiated the sale of the Property without collusion, in good faith, and at arms’ length; (e) the Buyer is, therefore, entitled to the protections afforded under Bankruptcy Code § 363(m); (f) all landlords and non-debtor parties to the contracts and leases assumed and assigned by this Order have been adequately assured of future performance; (g) the objections filed by the Objectors and the Maricopa County Treasurer have been resolved or withdrawn based on the provisions of this Order to which all Objectors, the DIP Lenders, and the Debtor stipulate as indicated by their counsels’ signatures below; and (h) good cause appears for granting the relief requested.

IT IS ORDERED that:

1. The Motion is GRANTED as provided in this Order.
2. The sale of the Assets to the Buyer is APPROVED.
3. Any objections to the relief requested in the Motion that have not been withdrawn, waived, or settled are overruled.

* Any capitalized term used but not defined in this Order retains the meaning given to it in the Motion.

4. For purposes of this Order, the term “Assets” means all assets of the Debtor of any kind except: (a) all causes of action under Chapter 5 of the Bankruptcy Code; (b) any causes of action of the Debtor or its estate against any past or present officer or director of the Debtor and the DIP Lenders not already waived or released by the estate in accordance with the DIP Orders.

5. The Buyer’s purchase price for the Assets comprises: (a) a credit bid in the amount of the DIP Obligations, as defined in the DIP Orders; (b) cash in the amount of \$475,000 in satisfaction of the Carveout under the DIP Orders; (c) a note in the total principal amount of \$1,000,000 made payable to an entity to be established at the direction of the Objectors for the exclusive benefit of all general unsecured creditors and all noteholders (the “**Creditor Note**”).

6. The Creditor Note will bear interest at 5% per year, with a term of four years. Payments of principal and interest under the Creditor Note will be payable quarterly on the last day of each quarter, beginning March 31, 2010, under a straight-line amortization, but if the Buyer’s EBITDA is less than or equal to \$500,000 for the immediately preceding quarter, the amount of principal and interest for that quarter will be zero. In that circumstance, the accrued but unpaid principal and interest will be added to the principal amount outstanding under the Creditor Note. The Buyer’s repayment of the Creditor Note will be secured by a junior lien on all the Buyer’s assets, including without limitation, intellectual property, with such lien being subordinated to all liens granted in the Buyer’s assets to secure repayment of any revolving or term loan for the Buyer’s working capital needs.

7. The sale of the Assets to the Buyer is free and clear of all liens, claims, and interests of any kind (together, the “**Interests**”) under Bankruptcy Code § 363(f). All Interests are released, terminated, and discharged as to the Assets and the Buyer (and its successors and assigns). Any Interest, if valid, legal, and enforceable, attaches to, and is to be satisfied from, the proceeds of the sale in the same priority the Interest had before the sale. The Buyers must satisfy the valid claims of Maricopa County as those claims become due in accordance with applicable law, and Maricopa County retains its liens on the Assets to the extent of those claims until paid.

8. The consideration provided by the Buyer for the Assets is fair and reasonable. Neither the consideration nor the sale approved in this Order may be avoided under Bankruptcy Code § 363(n).

9. The purchase of the Assets is undertaken by the Buyer in good faith, as that term is used in Bankruptcy Code §363(m). Accordingly, the reversal or modification on appeal of the authorization provided in this Order to consummate the sale will not affect the validity of the sale of the Assets to the Buyer, unless this Order is duly stayed pending such an appeal. The Buyer, as a purchaser in good faith of the Assets, is entitled to all protections afforded under Bankruptcy Code § 363(m). This finding under Bankruptcy Code § 363(m) is without prejudice to, and has no preclusive effect on, any claim of the estate or any direct claims held by any third party against the DIP Lenders or the Buyer.

10. Every federal, state, and local governmental agency or department is directed to accept any document or instrument necessary and appropriate to consummate the transactions contemplated by this Order.

11. Under no circumstance may the Buyer or any of its affiliates be deemed a successor of the Debtor for any Interest in the Assets. Any person holding an Interest in the Property is permanently enjoined from asserting, prosecuting, or otherwise pursuing its Interest against the Buyer, its property, its affiliates, successors, and assigns, or the Assets with respect to that Interest or any claim that person may have against the Debtor or its estate. On and after the closing of the sale authorized in this Order, no holder of an Interest or any claim against any Debtor or its estate may interfere with Buyer's title to, or use and enjoyment of, the Property.

12. This Court retains jurisdiction to enforce and implement the terms and provisions of this Order and any agreements or instruments executed in connection with this Order including, but not limited to, retaining jurisdiction to resolve any disputes arising under or related this Order and to interpret, implement, and enforce the provisions of this Order.

13. The automatic stay of execution of this Order under Bankruptcy Rule 6004(h) is waived. This Order is effective and enforceable immediately on entry.

14. The Debtor is authorized to assume and assign to the Buyer all executory contracts and unexpired nonresidential real property leases listed on Exhibit B to the Motion (as that list may have been modified on the record of the Sale Hearing) effective as of the entry of this Order. The automatic stay of execution of this Order under Bankruptcy Rule 6006(d) is waived.

15. The Buyer, the Debtor, the DIP Lenders, and the Objectors are authorized to enter into any agreement or take any action necessary or appropriate to effect and implement the provisions of this Order.

SIGNED AND DATED ABOVE

STIPULATED AND AGREED:

JENNINGS, STROUSS & SALMON, P.L.C.
Counsel for Committee

By: /s/ Carolyn J. Johnsen
Carolyn J. Johnsen

SQUIRE, SANDERS & DEMPSEY, L.L.P.
Counsel for Debtor

By: /s/ Jordan A. Kroop
Jordan A. Kroop

PORTER & HEDGES, LLP
Counsel to DIP Lenders and Buyer

By: /s/ James Matthew Vaughn
James Matthew Vaughn

LEWIS & ROCA, LLP
Counsel to Secured Noteholders

By: /s/ Scott K. Brown
Scott K. Brown

OSBORN MALEDON, P.A.
Counsel to John Costello

By: /s/ Brenda K. Martin
Brenda K. Martin

PERKINS COIE BROWN & BAIN P.A.
Counsel to Bridges Group

By: /s/ Richard M. Lorenzen
Richard M. Lorenzen

Delaware

PAGE 1

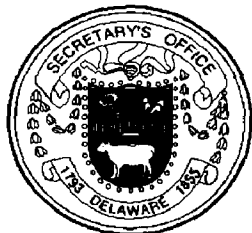
The First State

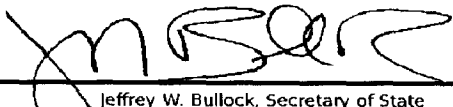
I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF FORMATION OF "ZOUNDS ACQUISITION, LLC", FILED IN THIS OFFICE ON THE NINTH DAY OF SEPTEMBER, A.D. 2009, AT 5:36 O'CLOCK P.M.

4728935 8100

090843488

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7517798

DATE: 09-09-09

PATENT
REEL: 023413 FRAME: 0834

CERTIFICATE OF FORMATION
OF
ZOUNDS ACQUISITION, LLC

The undersigned authorized person, acting as organizer of a limited liability company under the Delaware Limited Liability Company Act (the "*Act*"), hereby adopts the following Certificate of Formation for such company.

ARTICLE I
Name

The name of the Company is Zounds Acquisition, LLC (the "*Company*").

ARTICLE II
Duration

The period of the duration of the Company is perpetual.

ARTICLE III
Purpose

The purpose for which the Company is organized is to transact any and all lawful business for which companies may be organized under the Act.

ARTICLE IV
Initial Registered Office and Agent

The address of the initial registered office for the Company is 615 South DuPont Highway, Dover, Kent County, Delaware 19901; and the name of the initial registered agent for the Company at such address is Capitol Services, Inc.

IN WITNESS WHEREOF, I have hereunto set my hand this 9th day of September, 2009.

/s/ Geoffrey L. Schultz
Geoffrey L. Schultz, *Authorized Person*

Delaware

PAGE 1

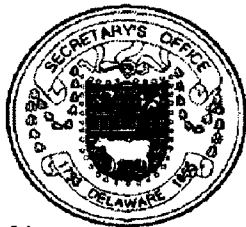
The First State


I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF AMENDMENT OF "ZOUNDS ACQUISITION, LLC", CHANGING ITS NAME FROM "ZOUNDS ACQUISITION, LLC" TO "ZOUNDS, LLC", FILED IN THIS OFFICE ON THE EIGHTEENTH DAY OF SEPTEMBER, A.D. 2009, AT 6:45 O'CLOCK P.M.

4728935 8100

090868521

You may verify this certificate online
at corp.delaware.gov/authver.shtml




Jeffrey W. Bullock, Secretary of State
AUTHENTICATION: 7536436

DATE: 09-18-09

PATENT
REEL: 023413 FRAME: 0836

**CERTIFICATE OF AMENDMENT
TO
CERTIFICATE OF FORMATION
OF
ZOUNDS ACQUISITION, LLC**

Pursuant to Sections 18-202 and 18-208 of the Delaware Limited Liability Company Act (the "Act"), ZOUNDS ACQUISITION, LLC, a Delaware limited liability company which filed its original Certificate of Formation with the Secretary of State of the State of Delaware on September 9, 2009, hereby adopts the following Certificate of Amendment to its existing Certificate of Formation:

ARTICLE I

The name of the company is ZOUNDS ACQUISITION, LLC (the "Company"), and its filing number is 4728935.

ARTICLE II

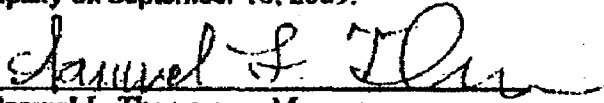
Article I of the existing Certificate of Formation is amended to read in full as follows:

ARTICLE I

"The name of the Company is ZOUNDS, LLC."

ARTICLE III

The foregoing amendment to the existing Certificate of Formation was approved and adopted by the Board of Managers of the Company on September 10, 2009.


Samuel L. Thomasson, Manager
September 18, 2009