

PATENT ASSIGNMENT

Electronic Version v1.1
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	Letter Terminating License Agreement, Howmedica License Agreement, and Statement of Facts:
CONVEYING PARTY DATA	
Name	Execution Date
Stryker Corporation	03/31/2004
RECEIVING PARTY DATA	
Name:	Fatenetix, LLC
Street Address:	47 Maple Street
Internal Address:	Suite L-28
City:	Summit
State/Country:	NEW JERSEY
Postal Code:	07901
PROPERTY NUMBERS Total: 3	
Property Type	Number
Patent Number:	5688274
Patent Number:	5688273
Patent Number:	5667508
CORRESPONDENCE DATA	
Fax Number:	(631)501-3526
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	631-501-5700
Email:	mail@cdfslaw.com
Correspondent Name:	Carter, DeLuca, Farrell & Schmidt, LLP
Address Line 1:	445 Broad Hollow Road
Address Line 2:	Suite 420
Address Line 4:	Melville, NEW YORK 11747
ATTORNEY DOCKET NUMBER:	1449-172
NAME OF SUBMITTER:	Dana A. Brussel

CH \$120.00 5688274

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Total Attachments: 18

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2 Pearl Court
Allendale, NJ 07401
t: 866 45 SPINE
t: 866 98 SPINE
www.stryker.com

stryker

Spine

Mr. Joseph P. Errico
Fastenetix LLC
475 Springfield Avenue
Suite 410
Summit, NJ 07901

Re: Mutual Termination of July 30, 1997
Development and License Agreement

Dear JP:

Pursuant to our recent discussions, the purpose of this letter is to mutually terminate the July 30, 1997 Development and License Agreement for Polyaxial Pedicle Screws ("Agreement") between Howmedica Osteonics Corp. ("Howmedica"), as successor to Howmedica Inc., and Fastenetix, LLC and the other "Licensors" identified in the Agreement.

Howmedica and the Licensors agree to mutually terminate the Agreement effective at the end of the present quarter, i.e., March 31, 2004. Howmedica shall account to Licensors for all Net Sales through March 31, 2004 in a final report and payment pursuant to paragraph 7(b) of the Agreement, and following such payment, Howmedica shall be deemed to have made full payments on all products for which payment has been made up to the date of termination of the Agreement, subject of course to an audit of Howmedica's records pursuant to paragraph 7(d) of the Agreement. Paragraphs 5, 7 and 14 shall survive this mutual termination of the Agreement, except that paragraph 7 shall only survive for purposes of making the final report and payment.

Please indicate your agreement and acceptance of the above by having officers of each Licensor execute this letter agreement of mutual termination.

Very truly yours,

STRYKER SPINE, A DIVISION OF
HOWMEDICA OSTEONICS CORP.

Date: 3/2/04

By: 

Name: Timothy J. Scannell

Title: Vice President & General Manager

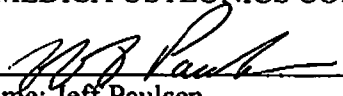
2 Pearl Court
Allendale, NJ 07401
t: 866 45 SPINE
t: 866 98 SPINE
www.stryker.com

stryker

Spine

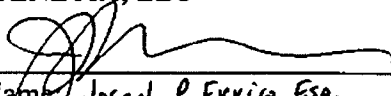
HOWMEDICA OSTEONICS CORP.

Date: 3/2/04

By: 
Name: Jeff Paulsen
Title: President


FASTENETIX, LLC

Date: 3/4/04

By: 
Name: Joseph P. Errico, Esq.
Title: General Counsel - Member

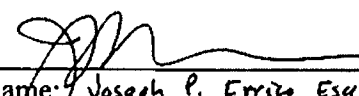
THIRD MILLENNIUM ENGINEERING, LLC

Date: 3/4/04

By: 
Name: Joseph P. Errico, Esq.
Title: General Counsel - Member

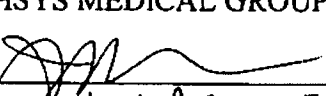
THE J-7 SUMMIT MEDICAL GROUP, LLC

Date: 3/4/04

By: 
Name: Joseph P. Errico, Esq.
Title: General Counsel - Member

TECHSYS MEDICAL GROUP, LLC

Date: 3/4/04

By: 
Name: Joseph P. Errico, Esq.
Title: General Counsel - Member

DEVELOPMENT AND LICENSE AGREEMENT
POLYAXIAL PEDICLE SCREWS

Agreement, dated as of July 30, 1997, between HOWMEDICA INC. ("Howmedica"), a Delaware corporation, having an office at 359 Veterans Blvd., Rutherford, New Jersey 07070-2584, and FASTENETIX, LLC., a Delaware limited liability company ("Fastenetix"), THIRD MILLENNIUM ENGINEERING, LLC., a Delaware limited liability company, ("TME"), THE J-7 SUMMIT MEDICAL GROUP, LLC., a Delaware limited liability company ("J-7"), and TECHSYS MEDICAL, LLC., a Delaware limited liability company ("TSM"), each having an office at 47 Maple Street, Suite L-28, Summit, New Jersey 07901. Fastenetix, TME, J-7 and TSM shall be collectively referred to as the "Licensors."

WHEREAS, Licensors have developed certain polyaxial pedicle screws for use with certain surgical procedures (collectively, the "Products") as described in Appendix I, attached hereto, and Licensors own or hereafter may acquire certain related patents and/or patent applications (collectively, the "Patents") as listed in Appendix I and certain know-how, trade secrets and scientific and technical information (collectively "Proprietary Information") relating to the Patents and the Product; and

WHEREAS, Howmedica desires to acquire from Licensors exclusive licenses to the Patents and the Proprietary Information, and Licensors are agreeable to granting such licenses pertaining thereto pursuant to the terms of this Agreement, each to the extent of its rights therein; and

WHEREAS, Fastenetix previously entered into a Confidentiality Agreement with Howmedica, dated October 18, 1996 (the "Confidentiality Agreement") with respect to the Products.

NOW, THEREFORE, Howmedica and Licensors hereby agree as follows:

1. Collaboration and Technical Assistance - Fastenetix, acting on behalf of the other Licensors, will collaborate with Howmedica in the commercial development of the Products and provide such technical assistance as may be necessary to develop the Products, including such services to be performed by Fastenetix pursuant to the terms of the Services Agreement, dated the date hereof, between Howmedica and Fastenetix, as the same may be amended from time to time.

2. Licenses - Subject to the terms and conditions of this Agreement, each Licensor hereby grant to Howmedica exclusive worldwide licenses (including the right to sublicense) for orthopedic applications (a) to use the Proprietary Information in connection with the manufacture, use and sale of Products and (b) to make, use and sell Products under the Patents, as set forth in Appendix I.

3. Improvements; Right of First Refusal

(a) (i) All improvements, modifications, or alterations to the Products made or developed during the term of this Agreement by any Licensor, including any related patents and scientific or technical information, know-how or trade secrets, and any patents obtained by such Licensor on any new polyaxial pedicle screw that such Licensor may develop during the term of this Agreement shall be deemed automatically subject to this Agreement and shall be included within the

corresponding definitions of Product, Patents and Proprietary Information, as the case may be, and shall be added to Appendix I. Licensors shall, from time to time, promptly disclose to Howmedica all such improvements, modifications or alterations. Without limiting the generality of the foregoing, such improvements, modifications and alterations may be patentable or not, and may include changes in materials, dimensions, sizes and the like in the Products. Each Licensors and each principal of each Licensors hereby agree that it or they, as the case may be, shall not enter into any agreement with any third party relating to the development of any polyaxial pedicle screw during the term of this Agreement.

(ii) Howmedica acknowledges that Fastenetix and its principals are involved in prior pending litigation with Spinal Concepts, Inc. ("Spinal Concepts") related to certain patents of Fastenetix (the "Spinal Concepts Litigation"), and that Fastenetix may desire to enter into a commercial transaction with Spinal Concepts with respect to certain of its polyaxial pedicle screws in order to resolve the Spinal Concepts Litigation. Accordingly, notwithstanding the foregoing provisions of Section 3(a)(i), Howmedica hereby acknowledges and agrees that Fastenetix shall have the right to enter into a commercial transaction with Spinal Concepts with respect to any or all of the three (3) polyaxial pedicle screws developed by Fastenetix prior to the execution of this Agreement as set forth in patent applications U.S.S.N. 08/772,407, 08/856,773, and 08/_____ (Attorney Docket No. E-153), and any continuations, continuations-in-part, divisional applications, and foreign applications stemming therefrom (the "Spinal Concepts Settlement Screws"), provided that any such transaction (a "Settlement Transaction") occurs before December 31, 1997, or such later date as may be mutually agreed upon by the parties hereto (the "Target Date"). If Fastenetix enters into a Settlement Transaction to resolve the Spinal Concepts Litigation by the Target Date, Howmedica shall have no rights with respect to the Spinal Concepts Settlement Screws to the extent that any such rights may be transferred to Spinal Concepts. If Fastenetix does not enter into any Settlement Transaction to resolve the Spinal Concepts Dispute by the Target Date, the Patents pertaining to the Spinal Concepts Settlement Screws shall be added to Appendix IC.

(b)(i) During the term of this Agreement, if any Licensors develops any orthopedic product, such Licensors shall not enter into any commercial transaction with a third party relating to such product until such Licensors first gives Howmedica the right to negotiate with respect to such product. Such Licensors shall negotiate exclusively in good faith with Howmedica with respect to such product for a period of up to 60 days from the date Howmedica receives written notice of such new product. If Howmedica and such Licensors have not entered into an agreement in principle with respect to such transaction within such 60-day period, Licensors may consummate a transaction relating to such product with any third party, provided, however, any such transaction with any third party shall be on principal terms, taken as a whole, not materially less favorable to Licensors than the least favorable terms (to the Licensors) last proposed by Howmedica.

(ii) Notwithstanding the foregoing provisions of Section 3(b)(i), Howmedica hereby acknowledges and agrees that with respect to the orthopedic implant products listed in Appendix TD developed by Fastenetix which Fastenetix proposes to include in a Settlement Transaction with Spinal Concepts (the "Spinal Concepts Implants"), until after the Target Date Howmedica shall have no right of exclusive negotiation. With respect to any other orthopedic implants which would have otherwise been subject to the provisions of Section 3(a)(i) and may be included in a Settlement Transaction with

~~Spinal Concepts, Licensors shall negotiate exclusively with Howmedica for a period of up to 30 days after Howmedica receives written notice of such proposal. If Fastenetix does not enter into an agreement in principle with Howmedica with respect to such other orthopedic implants within such 30-day period, then Fastenetix may consummate the proposed transaction with Spinal Concepts. Any negotiations between Licensors and Howmedica with respect to any Spinal Concepts Implants or other orthopedic implants that commences after the Target Date shall be subject to the 60-day exclusive negotiation period provisions of Section 3(b)(i).~~

4. Names - Licensors hereby grant to Howmedica the right to stamp, designate and advertise the Products under such names, designs, or trademarks as Howmedica may determine; provided, however, Howmedica will not use any of the names listed in Appendix II in the promotion or sale of any Product during the term of this Agreement without obtaining the consent of Licensor. During the term of this Agreement, no Licensor will consent to the use of its name by others in connection with any products which compete with the Product.

5. Confidentiality - During the term of this Agreement and for five (5) years after expiration or termination hereof (other than termination by Howmedica under paragraph 12(a) or by Licensor under paragraph 12(b) hereof), Licensors shall keep confidential and not disclose to others or use for any purpose any Proprietary Information or any confidential information disclosed by Howmedica to Licensors; provided, however, that the foregoing obligations of confidentiality and non-use shall not apply to the extent that any such Proprietary Information or confidential information: (a) is or becomes publicly known other than through acts or omissions of Licensors; (b) is disclosed in good faith to Licensors by a third party under a reasonable claim of right; or (c) is developed independently by Licensors.

6. Payments - In consideration of the licenses and the other rights granted to Howmedica hereunder and the other rights granted to Howmedica herein, Howmedica shall make payments to Fastenetix as follows: (A) lump sum payment of \$50,000 payable within 90 days after the Product described in Appendix IA becomes commercially available in the United States; (B) lump sum payment of \$50,000 payable within 90 days after total cumulative worldwide Net Sales of Products first reach \$2.0 million; and (C) royalty payments in the amount of five percent (5%) of "Net Sales" (as defined below) of Products. Licensors acknowledge and agree that no payments shall be made hereunder to any Licensor other than Fastenetix, and such other Licensors hereby assign any right to receive payment hereunder to which they may otherwise be entitled to Fastenetix. The term "Net Sales" shall mean the proceeds received by Howmedica, its affiliates or licensees from sales of Product to unaffiliated third parties, after deducting normal and customary cash and trade discounts, returns, allowances and commissions to direct sales personnel and agents, and any excise, sales or use or other similar taxes which are reasonably documented. The foregoing payments shall be payable on Net Sales in each country until the later of: (i) the expiration of the last to expire of the Patents in such country with claims directed to the manufacture or sale of the product sold therein by Howmedica, its affiliates or licensees, or (ii) ten (10) years from the date of first commercial sale of any Product in such country by Howmedica, its affiliates or licensees. After the end of the relevant payment period, Howmedica shall not be required to make any further payments to Licensors and shall be free to continue to use all Proprietary Information as well as rights granted under paragraph 4 hereof.

7. Accounting and Procedures for Payments - Payments hereunder shall be subject to the following provisions:

(a) Sales between or among Howmedica, its affiliates or licensees shall not be subject to payments under paragraph 6 hereof, but in such cases payments shall be calculated upon Net Sales to an independent third party. Howmedica shall be responsible for payments on Net Sales by its affiliates or licensees.

(b) Howmedica shall make payments to Fastenetix on Net Sales during each calendar quarter within 60 days after the end of each such quarter, and each payment shall be accompanied by a report identifying the corresponding Product, Net Sales, and the amount payable to each, as well as computation thereof. All payments shall be made in United States Dollars and shall be remitted to Licensor at his address as first specified above.

(c) Any taxes required by government to be paid or withheld by Howmedica, its affiliates or licensees by any governmental authority for the account of Licensor on amounts payable under this Agreement shall be deducted from the amounts payable at the rates specified by applicable law. In addition, Howmedica shall provide promptly to Licensor receipts from the government or taxing authority evidencing payment of such taxes.

(d) Howmedica, its affiliates and licensees shall keep full and accurate books and records setting forth gross sales, Net Sales, and amounts payable to Licensors. Howmedica shall permit Licensors, at their expense, by independent certified public accountants employed by them and reasonably acceptable to Howmedica, to examine such books and records at any reasonable time, but not later than 3 years following the rendering of any such reports, accountings and payments. The opinion of said independent accountants regarding such reports, accountings and payments shall be binding on the parties hereto. In the event such audit reveals underpayment of royalties by at least 10%, Howmedica shall reimburse Licensors the cost of such audit.

8. Commercialization - While Howmedica will conduct itself in a commercially reasonable manner, nothing in this Agreement shall require Howmedica to maximize sales of the Products nor to prevent Howmedica from manufacturing, using or selling in any country any products similar to or competitive with the Products. Licensors also agree that nothing in this Agreement shall in any way limit Howmedica's sole and exclusive right to determine, in its discretion, the timing or manner of marketing, manufacturing, advertising, or labeling the Products, provided such marketing, manufacturing, advertising or labeling is in compliance with applicable laws and regulations. Notwithstanding the foregoing, Howmedica shall take commercially reasonable steps to indicate patent status on packaging or other promotional materials.

9. Patents

(a) Licensors and Howmedica shall cooperate with the continued prosecution by Licensors of the patent applications now or hereafter listed on Appendix I. If Howmedica desires that Licensors file any applications for a Patent in specific countries other than those enumerated in

Appendix I, or file any patent applications on improvements and variations upon inventions disclosed in the Patent or otherwise relating to the Proprietary Information for use with the Products, Howmedica shall advise Licensors of such countries or improvements, variations or inventions, as the case may be, and Licensors shall thereupon file patent applications as requested. Howmedica and Licensors shall each pay 50% of the cost of all reasonable expenses, including reasonable fees for patent counsel for filing and prosecuting patent applications and 50% of all maintenance expenses of the Patents listed in Appendix IA; provided that if the total number of countries in which Howmedica desires to file any applications for a Patent exceeds twenty-nine (29), then Howmedica and Licensors shall reach mutual agreement on which party shall bear the costs of filing, prosecuting and maintaining such Patents. Howmedica shall pay for the cost of all reasonable expenses, including reasonable fees for patent counsel for filing and prosecuting patent applications and all maintenance expenses of the Patents listed in Appendix IB. The parties hereto shall reach mutual agreement at a later date on the allocation of the costs associated with filing, prosecuting and maintaining the Patents listed in Appendix IC.

(b) Howmedica shall have the right, but not the obligation, to defend or institute litigation in connection with the Patents, the Proprietary Information or otherwise with respect to the Product, and any such litigation shall be at Howmedica's expense and for its sole benefit; provided, however, that Howmedica shall pay Fastenetix 5% of any amount awarded in such litigation that is based on lost revenue from the Products after deduction of certain costs associated with such litigation, as determined in the following manner. Attorneys' fees and other reasonably documented costs associated with such proceedings shall be paid first from any amount awarded that was not based on lost revenue from the Products, and any remaining litigation costs shall be paid from the amount awarded based on lost revenue from the Products. Each Licensor, upon request of Howmedica, agrees to join (without cost or expense) in any such litigation and to cooperate with Howmedica. If Howmedica fails to defend or prosecute any such action, Licensor shall have the right, upon 60 days prior notice to Howmedica, at his expense and for his sole benefit, to defend or institute any such litigation, and Howmedica agrees to join in any such litigation and to cooperate with such Licensor.

(c) If Howmedica reasonably determines in good faith with respect to any country that, in order to avoid infringement of any Patent licensed hereunder regarding the Products, it is reasonably necessary to obtain a license in order to make, use or sell Products and to pay a royalty under such license, then (i) Howmedica shall so inform Licensors, and (ii) the amount of Howmedica's royalty payments under Section 6 hereof with respect to Net Sales in such country shall be reduced by the amount of the royalty paid under such other license.

10. Representations - Each Licensor hereby represents to Howmedica that (i) each Licensor is the legal and beneficial owner of the Patents as listed in Appendix I and the Proprietary Information and, except as described in Appendix III hereof, has not entered into any agreement with any other person or firm granting any rights to the Product, the Patents or the Proprietary Information or otherwise inconsistent with the provisions of this Agreement, and without limitation of the generality of the foregoing, no academic, medical or other institution with which Licensor is or has been associated or affiliated has any ownership or any other rights whatsoever to the Product, Patents or the Proprietary Information; (ii) no approvals or consents of any institution, firm or governmental entity are necessary with respect to the execution and performance by Licensor of this Agreement:

(iii) to the best of Licensor's knowledge, and subject to the provisions in Appendix III, the manufacture, use or sale of the Products by Howmedica will not infringe any patents of third parties and; (iv) Licensor has heretofore disclosed or will make available in commercially reasonable time to Howmedica all material information and data known to Licensor regarding the Products, including its intended use, method of use, and any safety or risk factors.

11. Term - This Agreement shall be effective as of the date first set forth above and shall remain in effect for so long as Howmedica is obligated to make payments to Licensor under paragraph 6 hereof, unless earlier terminated as provided herein. The provisions of paragraphs 5 and 14 shall survive the expiration or termination of this Agreement, and the provisions of paragraph 6, last sentence, shall survive the expiration of this Agreement.

12. Termination - This Agreement shall terminate as follows:

(a) If at any time Howmedica shall, in its reasonable judgment, determine that (i) for medical or technical reasons it is not reasonably practicable to sell or to continue to sell Products in one or more major markets; or (ii) governmental regulatory requirements in one or more major markets make or would make registration or marketing of Products not reasonably practicable (including but not limited to any request by the U.S. Food and Drug Administration for submission of clinical data as a prerequisite to its approval of the Products for commercial sale in the U.S.); (iii) for reasonable commercial reasons it shall not be economically practicable to market or continue to market the Products; or (iv) if Howmedica shall decide, at its discretion, permanently to cease to sell the Product, then in each such case Howmedica, upon 60 days notice to Licensors, shall have the right, as Howmedica may elect at its discretion, to terminate this Agreement, whereupon this Agreement shall terminate 60 days after the date of such notice.

Howmedica shall make commercially reasonable efforts to promote and market the Products. If Howmedica does not market the Products listed in Appendix IA within three (3) years of the date hereof or the Products listed in Appendix IB within four (4) years of the date hereof, Licensors shall have the right to terminate this Agreement upon 60 days notice to Howmedica, provided that Licensors have fulfilled their obligations hereunder and under the Services Agreement to provide technical assistance in the commercial development of the Products.

(b) If either Howmedica or any Licensor breaches or defaults in the performance or observance of any of the provisions of this Agreement, and such breach or default is not cured within 60 days after the giving of notice by the other party specifying such breach or default, the other party shall have the right to terminate this Agreement upon a further 30 days notice. If any representation or warranty of any party as contained in this Agreement shall be materially incorrect or inaccurate, such shall be deemed to be a material breach or default of this Agreement by such party.

(c) Upon any termination of this Agreement by Howmedica under paragraph 12(a) or by any Licensor under paragraph 12(b) hereof, the licenses granted hereunder to Howmedica shall terminate.

(d) Termination of this Agreement for any reason shall be without prejudice to the Licensors' right to receive all payments accrued under paragraph 6 hereof prior to the effective date of such termination and any other remedies which either party may otherwise have.

13. Force Majeure - No party shall be liable for failure of or delay in performing obligations set forth in this Agreement, and no party shall be deemed in breach of its obligations, if such failure or delay is due to natural disasters or any causes reasonably beyond the control of such party.

14. Indemnification - Howmedica shall indemnify and hold Licensor harmless from and against any and all expenses, claims, demands, liabilities or money judgments incurred by or rendered against Licensors which directly or indirectly are related to or arise out of the testing or use, manufacturing, sale or distribution of the Products, in each case by Howmedica its affiliates or licensees, except for such claims, liabilities or judgments attributable to the Company's breach of its representations as contained in this Agreement. If any claims shall be made against Licensors to which this indemnification applies, Licensors, as soon as reasonably practicable, shall inform Howmedica and allow Howmedica the opportunity to assume direction and control of the defense thereof, including settlement at the sole option of Howmedica. Licensors shall cooperate with Howmedica in the disposition of any such matters. Licensors shall have the right to participate at its expense in the defense of any claim to which this indemnification applies. This section shall survive termination or expiration of this Agreement.

15. Miscellaneous

(a) The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of New York applicable to agreements to be performed entirely within such state, without regard to the choice of law provisions thereof.

(b) Licensors shall not assign their rights or obligations under this Agreement, except for the right to receive payments hereunder. Howmedica shall not assign any rights or obligations under this Agreement without the prior written consent of Licensors, except that this Agreement may be assigned to any company controlling, controlled by, or under common control with Howmedica. This Agreement shall inure to the benefit of, and be binding upon, the successors and assigns of Licensors and Howmedica.

(c) Any notice required under this Agreement shall be in writing and delivered personally or sent by certified or registered mail, postage prepaid and return receipt requested, or by overnight express delivery service, and addressed to the parties at their respective addresses as first set forth above. All notices shall be deemed to be effective on the date of receipt. Any party may change its address for receipt of notices by giving written notice of such change to the other party pursuant to this subparagraph.

(d) This Agreement, the Services Agreement and the Confidentiality Agreement set forth the entire agreement and understanding between the parties as to the subject matter hereof and have priority over all documents, verbal consents or understandings made between Licensors and

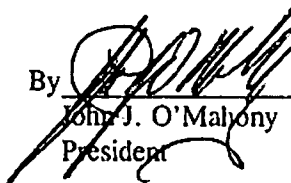
Howmedica with respect to the subject matter hereof; none of the terms of this Agreement shall be amended or modified except in a written instrument signed by the parties hereto.

(e) A waiver by any party of any term or condition of this Agreement in any one instance shall not be deemed or construed to be a waiver of such term or condition for any similar instance in the future or of any subsequent breach hereof. All rights, remedies, undertakings, obligations and agreements contained in this Agreement shall be cumulative and none of them shall be a limitation of any other remedy, right, undertaking, obligation or agreement of any party.

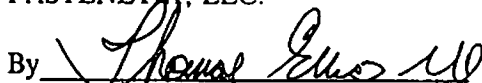
(f) Headings in this Agreement are included herein for ease of reference only and have no legal effect.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment Agreement to be duly executed as of the date first written above.

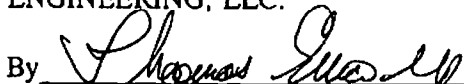
HOWMEDICA INC.

By .
John J. O'Mahony John J O Mahony
President President


FASTENETIX, LLC.

By 
Name: Thomas Ennis M.D.
Title: Managing Member

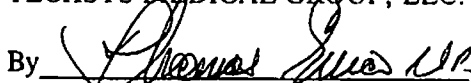
THIRD MILLENNIUM
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By 
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Title: Managing Member

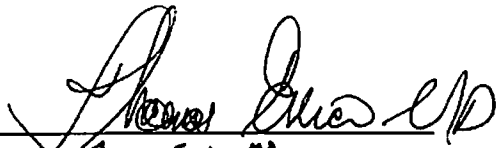
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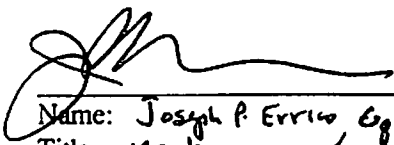
By 
Name: Thomas Ennis M.D.
Title: Managing Member

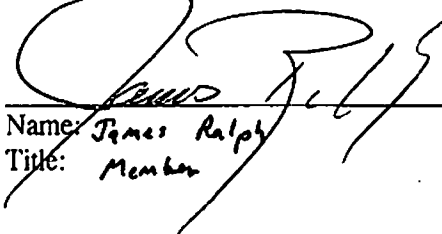
TECHSYS MEDICAL GROUP, LLC.

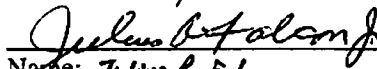
By 
Name: Thomas Ennis, M.D.
Title: Managing Member

AGREEMENT BY PRINCIPALS OF THE
EACH LICENSOR TO SECTION 3(a) OF THIS
AGREEMENT:


Name: Thomas Errico, M.D.
Title: Managing Member


Name: Joseph P. Errico, Esq.
Title: Member


Name: James Ralph
Title: Member


Name: Julius R. Falcon
Title: Member

APPENDIX IA

The First Polyaxial Pedicle Screw And Unitary Cap Nut

Description. A polyaxial pedicle screw including: a threaded bone screw shaft having a ball head; a body having a rod receiving channel, a threading for receiving a unitary cap nut, and a central bore having a tapered bottom portion; a colletted and tapered member which mounts around the ball head of the screw shaft and nests in the tapered bottom portion of the body such that the screw and the body are initially polyaxially rotateable and such that a forcible translation of the ball head and colletted and tapered member within the tapered bottom portion of the bore causes the assembly to be locked together. A unitary cap nut having a central set screw portion which is rotateably mounted with an outer hoop member such that each may engage the corresponding inner or outer portion of the top locking portion of the body portion of the polyaxial pedicle screw.

Patents and Proprietary Information: The patents and patent applications under which are directed in whole or in part to this Product, as described above, and which are exclusively licensed to the extent that they cover this Product are:

1. U.S. Patent No. 5,520,690 ✓
2. U.S. Patent No. 5,607,426 ✓
3. U.S. Patent No. 5,531,746 ✓
4. U.S. Patent No. 5,634,265 ✓ 5643 265 ✓
5. U.S. Patent No. 5,647,873 ✓
6. U.S. Patent Application No. 08/559,196 ✓ 5669911 ✓
7. U.S. Patent Application No. 08/788,800 ✓ 5817094
8. U.S. Patent Application No. 08/641,504 — unitary cap
9. U.S. Patent Application No. 08/641,504
10. U.S. Patent Application No. 08/835,909
11. U.S. Patent Application No. 08/843,972-5888204
12. U.S. Patent Application No. 08/772,403-5690630
13. PCT Application No. PCT/US96/04920
14. PCT Application No. PCT/US97/07328

APPENDIX IB

The Second Polyaxial Pedicle Screw and Modular Rail Plate

Description. A polyaxial pedicle screw including: a threaded bone screw shaft having a threaded post member flexibly and rotateably, but selectively lockable mounted thereto by means of a floating ball joint having a threaded sleeve which provides one locking force, and a rod securing subassembly which also provides an additional locking force. In addition, a modular spine rail assembly which is mountable to multiple ones of the above-mentioned polyaxial pedicle screws by means of slideable and selectively lockable post receiving members which initially translate along a pair of rails which comprise the plate.

Patents and Proprietary Information: The patents and patent applications under which are directed in whole or in part to this Product, as described above, and which are exclusively licensed to the following Licensors to the extent that they cover this Product are:

- | | |
|---|---------|
| 1. U.S. Patent Application No. 08/728,017 | TechSys |
| 2. U.S. Patent Application No. 08/799,720 | TechSys |
| 3. U.S. Patent Application No. 08/846,473 | TechSys |
| 4. PCT Application from US Patent Application
Nos. 08/728,017 and 08/799 720 | TechSys |
| 5. PCT Application No. from US Patent
Application No. 08/846,473 | TechSys |

APPENDIX IC

Additional Polyaxial Pedicle Screws

Description: Additional polyaxial pedicle screws and methods of manufacture

Patents and Proprietary Information licensed to the following Licensors:

- | | | |
|----|--------------------------------------|------------------------------|
| 1. | US Patent No. 5,586,984 | Fastenetix |
| 2. | US Patent Application No. 08/799,721 | Third Millennium Engineering |
| 3. | US Patent Application NO. 08/799,722 | Third Millennium Engineering |

APPENDIX ID

1. U.S. Patent Application No. 08 547,105
2. U.S. Patent Application No. 08 547,106
3. U.S. Patent Application No. 08/567,144
4. U.S. Patent Application No. 08 549,977
5. U.S. Patent Application No. 08 622,891
6. U.S. Patent Application No. 08 632,561
7. U.S. Patent Application No. 08 677,812
8. U.S. Patent Application No. 08 772,406
9. PCT Application No. US 96/18266

APPENDIX II

Excluded Product names:

Errico

Fastenctix

Third Millennium Engineering

J-7 Summit Medical Group

TechSys Medical Group

Ralph

Statement Regarding Patent Ownership

K2M, Inc., the current owner of this patent, makes this filing in order to inform the public of the correct ownership of this patent.

A recording was filed against this patent purporting to assign this patent from Howmedica, Inc. to Stryker Technology Corporation. Subsequently, documents were recorded which purport to grant a security interest in this patent from Stryker Technology Corporation to Bank of America. As shown herein, Howmedica did not possess an ownership interest in this patent and could not have assigned the patent to Stryker. Accordingly, Stryker could not and did not acquire a securable interest in the patent and could not have granted a security interest to the Bank of America.

The correct facts are as follows.

On July 30, 1997, the owner of this patent at that time entered into an agreement with Howmedica, Inc. entitled "Development and License Agreement Polyaxial Pedicle Screws" (the "Howmedica Agreement"). A copy of the Howmedica Agreement is included in this filing. The Howmedica Agreement granted Howmedica a license under an application which led to the issuance of this patent. The Howmedica Agreement did not grant Howmedica any ownership interest in the patent to Howmedica. In 1998 Stryker acquired Howmedica.

In 2004, Stryker Spine, successor in interest to the Howmedica Agreement, signed a letter setting forth the agreement of Stryker and the original owner of the patent to mutually terminate the Howmedica Agreement. A copy of the letter terminating the Howmedica Agreement is included in this filing.

In sum, Howmedica never acquired an ownership interest in the patent and could not have assigned any securable interest in the patent to Stryker. Consequently, Stryker could not have granted a security interest in the patent to Bank of America.

K2M, Inc. is the sole owner of this patent.