

# PATENT ASSIGNMENT

Electronic Version v1.1  
 Stylesheet Version v1.1

SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT
<b>CONVEYING PARTY DATA</b>	
Name	Execution Date
Mr. Joseph R. Galgana	04/28/2011
<b>RECEIVING PARTY DATA</b>	
Name:	Mr. Shawn P. Kelly
Street Address:	46 Plantation Circle
City:	Westfield
State/Country:	MASSACHUSETTS
Postal Code:	01085
<b>PROPERTY NUMBERS Total: 1</b>	
Property Type	Number
Patent Number:	7592094
<b>CORRESPONDENCE DATA</b>	
Fax Number:	(518)377-6737
<i>Correspondence will be sent via US Mail when the fax attempt is unsuccessful.</i>	
Phone:	518-377-6737
Email:	jyablon@nycap.rr.com
Correspondent Name:	Jay R. Yablon
Address Line 1:	910 Northumberland Drive
Address Line 4:	Schenectady, NEW YORK 12309-2814
ATTORNEY DOCKET NUMBER:	KELLP002NAT
NAME OF SUBMITTER:	Jay R. Yablon
Total Attachments: 37 source=Executed Galgana to Kelly Assignment US#page1.tif source=Kelly Executed Agreement Redacted#page1.tif source=Kelly Executed Agreement Redacted#page2.tif source=Kelly Executed Agreement Redacted#page3.tif source=Kelly Executed Agreement Redacted#page4.tif	

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## ASSIGNMENT OF UNITED STATES PATENT

**WHEREAS**, Joseph R. Galgana ("Galgana") of 270 Old Ocean Street, Marshfield, Massachusetts 02050 and Shawn P. Kelly ("Kelly") of 46 Plantation Circle, Westfield, Massachusetts 01085 did obtain United States Patent 7,592,094 dated September 22, 2009 for a "Device, system and method for improving efficiency and preventing degradation of energy storage devices," as the co-inventors thereof; and

**WHEREAS**, neither Galgana nor Kelly have at any time assigned their ownerships of said Patent and so are each the original and current co-owners of a 50% interest in said US 7,592,094 by virtue of said co-inventorship; and

**WHEREAS**, Kelly is desirous of acquiring Galgana's said 50% interest in said US 7,592,094 thereby owning the entire right, title and interest in said US 7,592,094; and

**WHEREAS**, Galgana has agreed to assign Galgana's said 50% interest in said US 7,592,094 over to Kelly in a PATENT SETTLEMENT, RELEASE, AND ASSIGNMENT AGREEMENT between Galgana and Kelly dated April 22, 2011 ("April 22 Agreement");

**NOW, THEREFORE**, in consideration of mutual promises made and considerations provided in said April 22 Agreement, which April 22, 2011 agreement is acknowledged, and other good and valuable consideration:

I, Joseph R. Galgana, by these presents do sell, assign and transfer unto Shawn P. Kelly my entire 50% right, title and interest in and to US Patent 7,592,094, for Kelly's own use and behoof, and for Kelly's legal representatives and assigns, to the full end of the term for which said US Patent 7,592,094 is granted, as fully and entirely as the same would have been held by me had this assignment and sale not been made.

by: Joseph R. Galgana

Joseph R. Galgana  
270 Old Ocean Street  
Marshfield, Massachusetts 02050

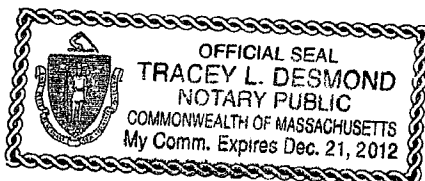
4-28-2011  
Date

Sworn to and subscribed before me this 28<sup>th</sup> day of April, 2011

at Marshfield, State of Ma, County of Plymouth

Tracey L. Desmond  
Notary Public

My commission expires:



## **PATENT SETTLEMENT, RELEASE, AND ASSIGNMENT AGREEMENT**

THIS AGREEMENT is made on this 22nd day of April, 2011, among: Joseph R. Galgana ("Galgana") of 270 Old Ocean Street, Marshfield, Massachusetts 02050; Shawn P. Kelly ("Kelly") of 46 Plantation Circle, Westfield, Massachusetts 01085;

### **THIRD PARTY REDACTED**

WHEREAS, Galgana and Kelly are the co-inventors and co-owners of US Patent 7,592,094 issued September 22, 2009, for the "Underlying Technology" of a Device, system and method for improving efficiency and preventing degradation of energy storage devices;

WHEREAS, Galgana and Kelly are also the co-inventors and co-owners of several "Non-US Patents and Patent Applications" for said Underlying Technology, specifically:

- European Patent EP 1,639,672 issued December 3, 2008, and Patents based on said EP 1,639,672, in the following countries: Czech Republic, France, Germany, Ireland, Netherlands, Spain, Sweden, Switzerland, and United Kingdom
- Canadian patent application 2,555,189 filed in Canada on August 1, 2006

WHEREAS, Galgana and Kelly have not at any time assigned the foregoing patents and patent applications to anyone else and therefore remain the co-owners of the said patents and patent applications; and

WHEREAS, Kelly wishes to obtain the exclusive ownership of said US Patent 7,592,094 by assignment from Galgana, and in consideration therefore, for Kelly to assume certain debts, to the extent such debts may exist, that may be allocable to Galgana;

WHEREAS, Galgana wishes simultaneously obtain the exclusive ownership of said Non-US Patents and Patent Applications by assignment from Kelly;

# **REDACTED**

**REDACTED**

NOW THEREFORE, in consideration of the foregoing and the promises made herein, Kelly, Galgana and AGT hereby agree as follows:

**REDACTED**

4) US PATENT ASSIGNMENT FROM GALGANA TO KELLY. Galgana hereby agrees within five (5) business days of the execution of this AGREEMENT, to execute in triplicate, an assignment agreement to sell, assign and transfer unto Kelly the entire right, title and interest in and to US Patent 7,592,094, for Kelly's own use and behoof, and for Kelly's legal representatives and assigns, to the full end of the term for which said US Patent 7,592,094 is granted, as fully and

entirely as the same would have been held by Galgana had this assignment and sale not been made. Thereafter, Kelly will undertake all responsibility to pay any and all fees and expenses associated with the maintenance and enforcement of said US Patent 7,592,094, and for the recording of this assignment.

Galgana hereby represents and attests that to the best of his knowledge, after inspecting his records and recollection and making reasonable inquiry, that there are no other unexpired US patents and pending applications for the Underlying Technology in now existence, except for the foregoing US 7,592,094.

Galgana hereby attests and affirms and warrants to Kelly, that he is at the present time fully vested and retains complete title to his 50% co-ownership interest in US 7,592,094, that this interest is unencumbered, that he has complete legal authority to make this assignment, and hereby completely indemnifies Kelly against any claims made by third parties who may attempt to make a claim of ownership or security interest against Galgana's 50% co-ownership interest in US 7,592,094. This indemnity includes payment of any legal fees which Kelly may be required to incur to defend against any such third party claims.

5) FOREIGN PATENT ASSIGNMENTS FROM KELLY TO GALGANA. Kelly hereby agrees within five (5) business days of the execution of this AGREEMENT, to execute in triplicate, an assignment agreement to sell, assign and transfer unto Galgana the entire right, title and interest in and to all of said Non-US Patents and Patent Applications, for Galgana's own use and behoof, and for Galgana's legal representatives and assigns, to the full end of the term for which said Non-US Patents and Patent Applications are or may be granted, as fully and entirely as the same would have been held by Kelly had this assignment and sale not been made. Thereafter, Galgana will undertake all responsibility to pay any and all fees and expenses associated with the maintenance and enforcement of said Non-US Patents and Patent Applications, and for the recording of these assignments.

Kelly hereby represents and attests that to the best of his knowledge, after inspecting his records and recollection and making reasonable inquiry, that there are no other unexpired non-US patents or patent Applications for the Underlying Technology in now existence, except for the foregoing Non-US Patents and Patent Applications.

Kelly hereby attests and affirms and warrants to Galgana, that he is at the present time fully vested and retains complete title to his 50% co-ownership interest in said Non-US Patents and Patent Applications, that this interest is unencumbered, that he has complete legal authority to make this assignment, and hereby completely indemnifies Galgana against any claims made by third parties who may attempt to make a claim of ownership or security interest against Kelly's 50% co-ownership interest in said Non-US Patents and Patent Applications. This indemnity includes payment of any legal fees which Galgana may be required to incur to defend against any such third party claims.

REDACTED

# REDACTED

7) MUTUALITY OF ASSIGNMENT, ESCROW AGENT. The assignments specified in paragraphs 4 and 5 are fully intended to be mutual, simultaneous assignments, each offered as consideration for the other. Therefore, the assignment executed under paragraph 4 shall not go into legal effect without the assignments executed under paragraph 5 also going into legal effect, and vice versa. Toward this end, the parties hereby agree to appoint Mr. Jay R. Yablon ("Yablon"), of the Law Office of Jay R. Yablon, 910 Northumberland Drive, Schenectady, New York 12309, as the escrow agent for the foregoing assignments. Specifically, Galgana will execute the triplicate of the assignment specified under paragraph 4 and provide the same to Mr. Yablon. Kelly will execute the triplicate of the assignments specified under paragraph 5 and provide the same to Mr. Yablon. Once Mr. Yablon is in receipt of said assignments from both parties and has confirmed that they have been properly executed, Mr. Yablon will forward one copy of each assignment to Galgana, one copy of each assignment to Kelly, and will retain one copy of each assignment for the files of his Law Office. The parties hereby authorize Mr. Yablon to destroy any and all executed assignment(s) he has received from either party, which destroyed assignment(s) shall then have no legal effect whatsoever, in the event Mr. Yablon determines that the other party has failed to deliver the properly executed assignment(s) within the required period of time, or any brief extensions as may reasonably be agreed to between Kelly and Galgana.

8) ASSISTANCE BY KELLY IN CANADIAN PATENT PROSECUTION. Notwithstanding all of the foregoing, Kelly hereby agrees to provide to Galgana, any and all assistance needed by Galgana or his agents and attorneys, to aid him in the successful prosecution of said Canadian patent application 2,555,189 into a grant as a patent.

9) EUROPEAN COUNTRY EXCLUSIONS. Kelly hereby agrees, in consideration of the assignment to Kelly of US Patent 7,592,094 of paragraph 4 herein, that Kelly will not make, use, sell, offer for sale or import said Underlying Technology in or into any country which is a member state or extension state of the European Patent Organization, any state which has been invited to accede to the European Patent Convention, Switzerland, and / or Kosovo ("European Countries"). Kelly further agrees that any licensing, assignment, research, development, or other like agreement that Kelly may enter into with any third party ("Third Party Agreement") with regard to making using, selling, offering for sale or making said Underlying Technology in the United States, shall contain all of the "European Exclusion" clauses set forth in Appendix A of this AGREEMENT.

It is to be understood that Kelly is under no obligation to inform Galgana as to the identity of any such third parties with whom Kelly has executed a Third Party Agreement. Nor does Kelly have any obligation to provide to Galgana any information pertaining to said Third Party Agreement. Rather, Kelly agrees that within ten (10) business days of executing any Third Party Agreement, Kelly shall provide a copy of said executed Third Party Agreement to Yablon (or any successor attorney whom Kelly and Galgana may subsequently agree to designate), whereby Yablon or successor shall maintain said executed agreement and the identities of any parties to that agreement

in confidence as a privileged and confidential attorney client communication between Yablon or successor and Kelly.

In the event that Galgana should come to believe through his own efforts and investigations that a third party is in fact making using, selling, offering for sale or making said Underlying Technology in one or more of said European Countries, Galgana shall advise Yablon or successor of this belief and provide to Yablon or successor in writing, whatever information he may have obtained to support this belief, including the identities of the parties involved. Yablon or successor will be permitted to confirm for Galgana, whether a party identified by Galgana does or does not have a Third Party Agreement with Kelly. Yablon or successor will also communicate to Kelly the identities of any parties provided to him by Galgana so that Kelly can confirm for Yablon or successor whether or not any of said parties is related to Kelly via a Third Party Agreement. If, after discussion with Kelly, Yablon or successor in his sole judgment and discretion concludes that Galgana has provided credible evidence that a party related to Kelly via a Third Party Agreement may be in breach of the European Exclusion, then Yablon or successor shall notify Kelly of this conclusion in writing. Within thirty (30) days thereafter, Kelly shall provide said cease and desist notice to the possibly-breaching party, giving said party thirty (30) days to cease and desist from said breach, or to establish why it is not, in fact, in breach.

Galgana may, in his sole discretion, authorize Kelly, in writing, to waive or refrain from enforcing this European Exclusion with regards to a particular third party or parties.

10) SEVERABILITY. The terms of this AGREEMENT are all interrelated and are generally not severable from one another. In the event that the assignments under paragraphs 4 and 5 do *not* occur, this entire agreement shall become null and void as if it had never been executed. Once the assignments under paragraphs 4 and 5 have gone into effect and the ownership interests have been transferred pursuant to paragraph 7, the releases and indemnities and debt assumptions and other requirements of paragraphs 1, 2, 3, 6, 9 and 10 will become final and irreversible, absent mutual, written agreement of the parties. The only provisions which may be severed, only upon a final court order, are those of paragraphs 8, 11, 12 and 13.

**REDACTED**

12) SUCCESSORS AND ASSIGNS. The terms of this AGREEMENT shall be binding upon, and shall inure to the benefit of, the parties, their successors, agents, assigns and devisees. Any agreement or other instrument which subsequently transfers the interests assigned herein to any other party or parties shall include terms which bind said other party or parties to this AGREEMENT. This requirement may be overridden for a particular future transfer of interests, but only upon a separate written agreement executed by both parties, and only with respect to the particular transfer for which this may be agreed.

13) MISCELLANEOUS. The interpretation, validity, and performance of this AGREEMENT shall be governed by the laws of the State of Massachusetts. It is agreed that Venue will be in Plymouth County, Massachusetts. This AGREEMENT constitutes the entire understanding



between the parties. No amendment or modification hereto shall be valid or binding unless made in writing and executed by both parties. Parties acknowledge that in the event of a breach of this AGREEMENT, money damages will be an inadequate remedy and that, in addition to any other right or remedies available at law or in equity, the aggrieved party shall be entitled to temporary or permanent injunctive relief to prevent or restrain any such breach.

14) EXECUTION. This AGREEMENT may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument, and shall be effective when executed by all parties.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, executed this AGREEMENT on the dates noted.

**JOSEPH R. GALGANA**

Joseph R. Galgana, being duly sworn, deposes and says that he has read the annexed PATENT SETTLEMENT, RELEASE AND ASSIGNMENT AGREEMENT and knows the contents thereof; that the same is true to his knowledge, and he duly consents to the terms and conditions of this Agreement.

by:

\_\_\_\_\_  
Joseph R. Galgana  
270 Old Ocean Street  
Marshfield, Massachusetts 02050

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 2011

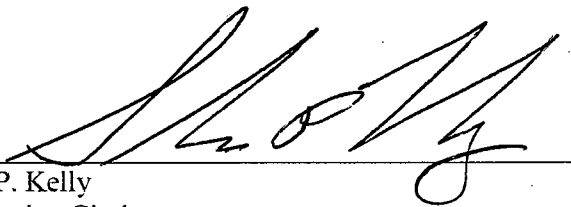
\_\_\_\_\_  
Notary Public

My commission expires:

**SHAWN P. KELLY**

Shawn P. Kelly, being duly sworn, deposes and says that he has read the annexed PATENT SETTLEMENT, RELEASE AND ASSIGNMENT AGREEMENT and knows the contents thereof; that the same is true to his knowledge, and he duly consents to the terms and conditions of this Agreement.

by:

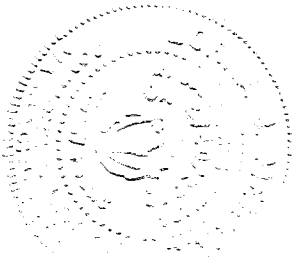
  
Shawn P. Kelly  
46 Plantation Circle  
Westfield, Massachusetts 01085

4/22/11  
Date

Sworn to and subscribed before me this 22 day of April, 2011

  
Notary Public

My commission expires: 4/20/2012



**ACTIVE GRID TECHNOLOGY, INC.**

Shawn P. Kelly, being duly sworn, deposes and says that he is the President of Active Grid Technology, Inc. and is duly authorized to enter into agreements on behalf of AGT, Inc. and bind AGT to said agreements, that he has read the annexed PATENT SETTLEMENT, RELEASE AND ASSIGNMENT AGREEMENT and knows the contents thereof; that the same is true to his knowledge, and he duly consents to the terms and conditions of this Agreement.

by:

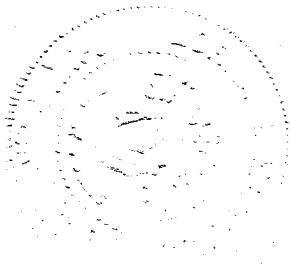
  
Shawn P. Kelly  
President, Active Grid Technology, Inc.  
46 Plantation Circle  
Westfield, Massachusetts 01085

Date 4/22/11

Sworn to and subscribed before me this 22 day of April, 2011

  
Notary Public

My commission expires: 4/20/2012



## APPENDIX A – EUROPEAN EXCLUSION CLAUSES

The following five clauses are to be included in any licensing, assignment, research, development, or other like agreement that Kelly may enter into with any third party ("Third Party Agreement") with regard to making using, selling, offering for sale or making said Underlying Technology in the United States, as provided for in paragraph 9 of the AGREEMENT to which this sheet is appended. The "agreement" referred to in the clauses below, is the Third Party Agreement to be made between Kelly and a third party at some future date, and not the AGREEMENT to which this sheet is appended. It is understood that these clauses below may be numbered differently in any such Third Party Agreement, and that references to a specific, named third party may be substituted for occurrences of "Third Party" in the clauses below.

1. Third Party hereby agrees that as a material precondition of the present agreement with Kelly, Third Party will not make, use, sell, offer for sale or import the technology of US Patent 7,592,094 in or into any country which is a member state or extension state of the European Patent Organization, any state which has been invited to accede to the European Patent Convention, Switzerland, and / or Kosovo. The legal standard for determining whether there is a breach of this "European Exclusion" shall be whether the purported breaching activities would constitute a patent infringement under US law on any of the claims of US Patent 7,592,094.
2. Third Party agrees that this agreement, in its entirety, is materially conditioned upon adherence to the "European Exclusion" set forth in paragraph 1 above.
3. Third Party agrees and consents in advance that this Agreement shall be nullified and cancelled in its entirety, in the event of a verified breach of the European Exclusion by said third party or its agents, successor and assigns which continues for more than thirty (30) days following a cease and desist notice provided to the breaching party by Kelly.
4. In the event of a dispute over whether the European Exclusion is in fact being breached, parties hereby agree that said dispute shall be submitted to binding arbitration.
5. The terms of paragraphs 1, 2, 3 and 4 of this agreement shall be binding upon, and shall inure to the benefit of, Kelly, Third Party, their successors, agents, assigns and devisees.

**REDACTED**

*4/22/11*

**REDACTED**

**REDACTED**



**REDACTED**

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## **PATENT SETTLEMENT, RELEASE, AND ASSIGNMENT AGREEMENT**

THIS AGREEMENT is made on this 22nd day of April, 2011, among: Joseph R. Galgana ("Galgana") of 270 Old Ocean Street, Marshfield, Massachusetts 02050; Shawn P. Kelly ("Kelly") of 46 Plantation Circle, Westfield, Massachusetts 01085;

### **THIRD PARTY REDACTED**

WHEREAS, Galgana and Kelly are the co-inventors and co-owners of US Patent 7,592,094 issued September 22, 2009, for the "Underlying Technology" of a Device, system and method for improving efficiency and preventing degradation of energy storage devices;

WHEREAS, Galgana and Kelly are also the co-inventors and co-owners of several "Non-US Patents and Patent Applications" for said Underlying Technology, specifically:

- European Patent EP 1,639,672 issued December 3, 2008, and Patents based on said EP 1,639,672, in the following countries: Czech Republic, France, Germany, Ireland, Netherlands, Spain, Sweden, Switzerland, and United Kingdom
- Canadian patent application 2,555,189 filed in Canada on August 1, 2006

WHEREAS, Galgana and Kelly have not at any time assigned the foregoing patents and patent applications to anyone else and therefore remain the co-owners of the said patents and patent applications; and

WHEREAS, Kelly wishes to obtain the exclusive ownership of said US Patent 7,592,094 by assignment from Galgana, and in consideration therefore, for Kelly to assume certain debts, to the extent such debts may exist, that may be allocable to Galgana;

WHEREAS, Galgana wishes simultaneously obtain the exclusive ownership of said Non-US Patents and Patent Applications by assignment from Kelly;

# **REDACTED**

*RRH*  
*04-22-11*

**REDACTED**

NOW THEREFORE, in consideration of the foregoing and the promises made herein, Kelly, Galgana and AGT hereby agree as follows:

**REDACTED**

4) US PATENT ASSIGNMENT FROM GALGANA TO KELLY. Galgana hereby agrees within five (5) business days of the execution of this AGREEMENT, to execute in triplicate, an assignment agreement to sell, assign and transfer unto Kelly the entire right, title and interest in and to US Patent 7,592,094, for Kelly's own use and behoof, and for Kelly's legal representatives and assigns, to the full end of the term for which said US Patent 7,592,094 is granted, as fully and

*JRH*  
*04-22-11*

entirely as the same would have been held by Galgana had this assignment and sale not been made. Thereafter, Kelly will undertake all responsibility to pay any and all fees and expenses associated with the maintenance and enforcement of said US Patent 7,592,094, and for the recording of this assignment.

Galgana hereby represents and attests that to the best of his knowledge, after inspecting his records and recollection and making reasonable inquiry, that there are no other unexpired US patents and pending applications for the Underlying Technology in now existence, except for the foregoing US 7,592,094.

Galgana hereby attests and affirms and warrants to Kelly, that he is at the present time fully vested and retains complete title to his 50% co-ownership interest in US 7,592,094, that this interest is unencumbered, that he has complete legal authority to make this assignment, and hereby completely indemnifies Kelly against any claims made by third parties who may attempt to make a claim of ownership or security interest against Galgana's 50% co-ownership interest in US 7,592,094. This indemnity includes payment of any legal fees which Kelly may be required to incur to defend against any such third party claims.

5) FOREIGN PATENT ASSIGNMENTS FROM KELLY TO GALGANA. Kelly hereby agrees within five (5) business days of the execution of this AGREEMENT, to execute in triplicate, an assignment agreement to sell, assign and transfer unto Galgana the entire right, title and interest in and to all of said Non-US Patents and Patent Applications, for Galgana's own use and behoof, and for Galgana's legal representatives and assigns, to the full end of the term for which said Non-US Patents and Patent Applications are or may be granted, as fully and entirely as the same would have been held by Kelly had this assignment and sale not been made. Thereafter, Galgana will undertake all responsibility to pay any and all fees and expenses associated with the maintenance and enforcement of said Non-US Patents and Patent Applications, and for the recording of these assignments.

Kelly hereby represents and attests that to the best of his knowledge, after inspecting his records and recollection and making reasonable inquiry, that there are no other unexpired non-US patents or patent Applications for the Underlying Technology in now existence, except for the foregoing Non-US Patents and Patent Applications.

Kelly hereby attests and affirms and warrants to Galgana, that he is at the present time fully vested and retains complete title to his 50% co-ownership interest in said Non-US Patents and Patent Applications, that this interest is unencumbered, that he has complete legal authority to make this assignment, and hereby completely indemnifies Galgana against any claims made by third parties who may attempt to make a claim of ownership or security interest against Kelly's 50% co-ownership interest in said Non-US Patents and Patent Applications. This indemnity includes payment of any legal fees which Galgana may be required to incur to defend against any such third party claims.

REDACTED

*JKH*  
*04-22-11*



# REDACTED

7) MUTUALITY OF ASSIGNMENT, ESCROW AGENT. The assignments specified in paragraphs 4 and 5 are fully intended to be mutual, simultaneous assignments, each offered as consideration for the other. Therefore, the assignment executed under paragraph 4 shall not go into legal effect without the assignments executed under paragraph 5 also going into legal effect, and vice versa. Toward this end, the parties hereby agree to appoint Mr. Jay R. Yablon ("Yablon"), of the Law Office of Jay R. Yablon, 910 Northumberland Drive, Schenectady, New York 12309, as the escrow agent for the foregoing assignments. Specifically, Galgana will execute the triplicate of the assignment specified under paragraph 4 and provide the same to Mr. Yablon. Kelly will execute the triplicate of the assignments specified under paragraph 5 and provide the same to Mr. Yablon. Once Mr. Yablon is in receipt of said assignments from both parties and has confirmed that they have been properly executed, Mr. Yablon will forward one copy of each assignment to Galgana, one copy of each assignment to Kelly, and will retain one copy of each assignment for the files of his Law Office. The parties hereby authorize Mr. Yablon to destroy any and all executed assignment(s) he has received from either party, which destroyed assignment(s) shall then have no legal effect whatsoever, in the event Mr. Yablon determines that the other party has failed to deliver the properly executed assignment(s) within the required period of time, or any brief extensions as may reasonably be agreed to between Kelly and Galgana.

8) ASSISTANCE BY KELLY IN CANADIAN PATENT PROSECUTION. Notwithstanding all of the foregoing, Kelly hereby agrees to provide to Galgana, any and all assistance needed by Galgana or his agents and attorneys, to aid him in the successful prosecution of said Canadian patent application 2,555,189 into a grant as a patent.

9) EUROPEAN COUNTRY EXCLUSIONS. Kelly hereby agrees, in consideration of the assignment to Kelly of US Patent 7,592,094 of paragraph 4 herein, that Kelly will not make, use, sell, offer for sale or import said Underlying Technology in or into any country which is a member state or extension state of the European Patent Organization, any state which has been invited to accede to the European Patent Convention, Switzerland, and / or Kosovo ("European Countries"). Kelly further agrees that any licensing, assignment, research, development, or other like agreement that Kelly may enter into with any third party ("Third Party Agreement") with regard to making using, selling, offering for sale or making said Underlying Technology in the United States, shall contain all of the "European Exclusion" clauses set forth in Appendix A of this AGREEMENT.

It is to be understood that Kelly is under no obligation to inform Galgana as to the identity of any such third parties with whom Kelly has executed a Third Party Agreement. Nor does Kelly have any obligation to provide to Galgana any information pertaining to said Third Party Agreement. Rather, Kelly agrees that within ten (10) business days of executing any Third Party Agreement, Kelly shall provide a copy of said executed Third Party Agreement to Yablon (or any successor attorney whom Kelly and Galgana may subsequently agree to designate), whereby Yablon or successor shall maintain said executed agreement and the identities of any parties to that agreement

JR  
04-22-11

in confidence as a privileged and confidential attorney client communication between Yablon or successor and Kelly.

In the event that Galgana should come to believe through his own efforts and investigations that a third party is in fact making using, selling, offering for sale or making said Underlying Technology in one or more of said European Countries, Galgana shall advise Yablon or successor of this belief and provide to Yablon or successor in writing, whatever information he may have obtained to support this belief, including the identities of the parties involved. Yablon or successor will be permitted to confirm for Galgana, whether a party identified by Galgana does or does not have a Third Party Agreement with Kelly. Yablon or successor will also communicate to Kelly the identities of any parties provided to him by Galgana so that Kelly can confirm for Yablon or successor whether or not any of said parties is related to Kelly via a Third Party Agreement. If, after discussion with Kelly, Yablon or successor in his sole judgment and discretion concludes that Galgana has provided credible evidence that a party related to Kelly via a Third Party Agreement may be in breach of the European Exclusion, then Yablon or successor shall notify Kelly of this conclusion in writing. Within thirty (30) days thereafter, Kelly shall provide said cease and desist notice to the possibly-breaching party, giving said party thirty (30) days to cease and desist from said breach, or to establish why it is not, in fact, in breach.

Galgana may, in his sole discretion, authorize Kelly, in writing, to waive or refrain from enforcing this European Exclusion with regards to a particular third party or parties.

10) SEVERABILITY. The terms of this AGREEMENT are all interrelated and are generally not severable from one another. In the event that the assignments under paragraphs 4 and 5 do *not* occur, this entire agreement shall become null and void as if it had never been executed. Once the assignments under paragraphs 4 and 5 have gone into effect and the ownership interests have been transferred pursuant to paragraph 7, the releases and indemnities and debt assumptions and other requirements of paragraphs 1, 2, 3, 6, 9 and 10 will become final and irreversible, absent mutual, written agreement of the parties. The only provisions which may be severed, only upon a final court order, are those of paragraphs 8, 11, 12 and 13.

**REDACTED**

12) SUCCESSORS AND ASSIGNS. The terms of this AGREEMENT shall be binding upon, and shall inure to the benefit of, the parties, their successors, agents, assigns and devisees. Any agreement or other instrument which subsequently transfers the interests assigned herein to any other party or parties shall include terms which bind said other party or parties to this AGREEMENT. This requirement may be overridden for a particular future transfer of interests, but only upon a separate written agreement executed by both parties, and only with respect to the particular transfer for which this may be agreed.

13) MISCELLANEOUS. The interpretation, validity, and performance of this AGREEMENT shall be governed by the laws of the State of Massachusetts. It is agreed that Venue will be in Plymouth County, Massachusetts. This AGREEMENT constitutes the entire understanding

*QPH*  
*64-22-11*

between the parties. No amendment or modification hereto shall be valid or binding unless made in writing and executed by both parties. Parties acknowledge that in the event of a breach of this AGREEMENT, money damages will be an inadequate remedy and that, in addition to any other right or remedies available at law or in equity, the aggrieved party shall be entitled to temporary or permanent injunctive relief to prevent or restrain any such breach.

14) EXECUTION. This AGREEMENT may be executed in several counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument, and shall be effective when executed by all parties.

IN WITNESS WHEREOF, the parties hereto, intending to be legally bound, executed this AGREEMENT on the dates noted.

*JR*  
04-22-11

**JOSEPH R. GALGANA**

Joseph R. Galgana, being duly sworn, deposes and says that he has read the annexed PATENT SETTLEMENT, RELEASE AND ASSIGNMENT AGREEMENT and knows the contents thereof; that the same is true to his knowledge, and he duly consents to the terms and conditions of this Agreement.

by:

Joseph R. Galgana

Joseph R. Galgana  
270 Old Ocean Street  
Marshfield, Massachusetts 02050

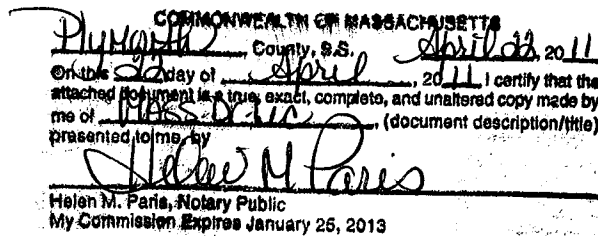
04-22-2011  
Date

Sworn to and subscribed before me this 22 day of April, 2011

Helen M. Paris

Notary Public

My commission expires:



**SHAWN P. KELLY**

Shawn P. Kelly, being duly sworn, deposes and says that he has read the annexed PATENT SETTLEMENT, RELEASE AND ASSIGNMENT AGREEMENT and knows the contents thereof; that the same is true to his knowledge, and he duly consents to the terms and conditions of this Agreement.

by:

\_\_\_\_\_  
Shawn P. Kelly  
46 Plantation Circle  
Westfield, Massachusetts 01085

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Notary Public

My commission expires:

**ACTIVE GRID TECHNOLOGY, INC.**

Shawn P. Kelly, being duly sworn, deposes and says that he is the President of Active Grid Technology, Inc. and is duly authorized to enter into agreements on behalf of AGT, Inc. and bind AGT to said agreements, that he has read the annexed PATENT SETTLEMENT, RELEASE AND ASSIGNMENT AGREEMENT and knows the contents thereof; that the same is true to his knowledge, and he duly consents to the terms and conditions of this Agreement.

by:

\_\_\_\_\_  
Shawn P. Kelly  
President, Active Grid Technology, Inc.  
46 Plantation Circle  
Westfield, Massachusetts 01085

\_\_\_\_\_  
Date

Sworn to and subscribed before me this \_\_\_\_ day of \_\_\_\_\_, 2011

\_\_\_\_\_  
Notary Public

My commission expires:

## APPENDIX A – EUROPEAN EXCLUSION CLAUSES

The following five clauses are to be included in any licensing, assignment, research, development, or other like agreement that Kelly may enter into with any third party ("Third Party Agreement") with regard to making using, selling, offering for sale or making said Underlying Technology in the United States, as provided for in paragraph 9 of the AGREEMENT to which this sheet is appended. The "agreement" referred to in the clauses below, is the Third Party Agreement to be made between Kelly and a third party at some future date, and not the AGREEMENT to which this sheet is appended. It is understood that these clauses below may be numbered differently in any such Third Party Agreement, and that references to a specific, named third party may be substituted for occurrences of "Third Party" in the clauses below.

1. Third Party hereby agrees that as a material precondition of the present agreement with Kelly, Third Party will not make, use, sell, offer for sale or import the technology of US Patent 7,592,094 in or into any country which is a member state or extension state of the European Patent Organization, any state which has been invited to accede to the European Patent Convention, Switzerland, and / or Kosovo. The legal standard for determining whether there is a breach of this "European Exclusion" shall be whether the purported breaching activities would constitute a patent infringement under US law on any of the claims of US Patent 7,592,094.
2. Third Party agrees that this agreement, in its entirety, is materially conditioned upon adherence to the "European Exclusion" set forth in paragraph 1 above.
3. Third Party agrees and consents in advance that this Agreement shall be nullified and cancelled in its entirety, in the event of a verified breach of the European Exclusion by said third party or its agents, successor and assigns which continues for more than thirty (30) days following a cease and desist notice provided to the breaching party by Kelly.
4. In the event of a dispute over whether the European Exclusion is in fact being breached, parties hereby agree that said dispute shall be submitted to binding arbitration.
5. The terms of paragraphs 1, 2, 3 and 4 of this agreement shall be binding upon, and shall inure to the benefit of, Kelly, Third Party, their successors, agents, assigns and devisees.

*LRH*  
*04-22-11*

**REDACTED**

*JRH*  
*04-22-11*



**REDACTED**

*PR*  
*04-22-11*

**REDACTED**

*PR  
24-22-11*

**REDACTED**

*PKH  
04-22-11*

**REDACTED**

*QRA  
04-22-11*

**REDACTED**

*PRJ  
04-22-11*

**REDACTED**

*FRP*  
*04-22-11*

**REDACTED**

*QPR*  
*04-22-11*