

PATENT ASSIGNMENT

Electronic Version v1.1
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SUBMISSION TYPE:	NEW ASSIGNMENT
NATURE OF CONVEYANCE:	ASSIGNMENT

CONVEYING PARTY DATA

Name	Execution Date
BAKER IDI HEART AND DIABETES INSTITUTE HOLDINGS LTD.	05/27/2011

RECEIVING PARTY DATA

Name:	David KAYE
Street Address:	16 Hornby St.
City:	Beaumaris, Victoria
State/Country:	AUSTRALIA
Postal Code:	3193

Name:	John POWER
Street Address:	28 Cauell St.
City:	Toowoomba East, Queensland
State/Country:	AUSTRALIA
Postal Code:	4350

Name:	Clif ALFERNESS
Street Address:	5945 Marymac Drive South West
City:	Port Orchard
State/Country:	WASHINGTON
Postal Code:	98367

PROPERTY NUMBERS Total: 1

Property Type	Number
Application Number:	10592839

CORRESPONDENCE DATA

Fax Number: (612)332-9081
 Phone: 612.332.5300

OP \$40.00 10592839

Email: cmanthie@merchantgould.com

Correspondence will be sent to the e-mail address first; if that is unsuccessful, it will be sent via US Mail.

Correspondent Name: Brian H. Batzli

Address Line 1: P.O. BOX 2903

Address Line 2: Merchant & Gould P.C.

Address Line 4: Minneapolis, MINNESOTA 55402-0903

ATTORNEY DOCKET NUMBER:

13108.51FPWO

NAME OF SUBMITTER:

Brian H. Batzli

Total Attachments: 7

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ASSIGNMENT

Parties

Short form name	Baker IDI
Entity Name	Baker IDI Heart and Diabetes Institute Holdings Limited
Address	75 Commercial Road, Melbourne VIC 3004
ABN	98 131 762 948
Phone	(03) 8532 1111
Fax	(03) 8532 1100
Email	commercialisation@bakeridi.edu.au
Attention	Exec. General Manager, Commercialisation & Research Contracts

Short form name	Kaye
Name	David Kaye
Address	16 HORNBY ST BEAUMARIS VIC 3193
Email	david.kaye@bakeridi.edu.au

Short form name	Power
Name	John Power
Address	28 CAVEIL ST, TOOWOOMBA EAST QLD 4350
Email	

Short form name	Alferness
Name	Clif Alferness
Address	5945 Marymac Drive South West, Port Orchard, Washington 98367 United States of America
Email	calferness@gmail.com

Background:

- (a) Baker IDI is a not-for-profit medical research organisation. It is Australia's first multi-disciplinary organisation tackling obesity, diabetes and cardiovascular disease through research, education and patient care.
- (b) The parties have agreed that Baker IDI will assign the Patent to the Assignees on the terms and conditions of this Agreement.

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement, unless the contrary intention appears from the context:

Assignees means each of Kaye, Power and Alferness;


Assignment means the assignment to the Assignees of all of Baker IDI's rights, entitlements and interest in relation to the Patents in accordance with clause 3.1.

Claim means any claim, demand, action or proceeding of any nature however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Dispute means a dispute between the parties in relation to this Agreement.

Commercialise or Commercialisation means to manufacture, sell, hire, use or otherwise exploit a product or process covered by a claim of the Patent, or to provide a service incorporating any claim of the Patent, or to license or assign the Patent to any third party to do any of those things

Net Income means all consideration received by the Assignee's from Commercialisation of the Patents, less:

- a) Patent Costs; and then
- b) 

Patent means the patent(s) and/or patent application(s) described in Schedule 1.

Patent Costs means all reasonable and actual out-of-pocket costs, excluding those reimbursed by a third party, paid by the Assignees for the preparation, filing and prosecution of the Patent and the maintenance of the resulting patents or patent applications, exclusive of any salaries, administrative, or other indirect costs.

1.2 In this Agreement:

- a) the singular includes the plural and vice versa;
- b) a reference to a clause, paragraph or schedule is to a clause, paragraph or schedule to this Agreement;
- c) a reference to a party is to a party to this Agreement;
- d) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- e) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- f) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions; and
- g) headings are for reference only and do not affect interpretation.

2. COMMENCEMENT

This Agreement will take effect on and from the date on which the last party signs this Agreement ("Commencement Date").

3. ASSIGNMENT OF INTELLECTUAL PROPERTY RIGHTS

3.1 Baker IDI assigns to the Assignees in equal shares all of Baker IDI's right, title and interest in the Patents, including:

- a) the Patents;
- b) the absolute right to apply for registration as the proprietor of the Patents; and
- c) the absolute right to do anything in relation to ownership, protection and use of the any of the rights assigned in this clause 3.1.

3.2 Baker IDI must, at the cost of the Assignees, do all things necessary to comply with all requirements in any jurisdiction to ensure assignment to the Assignees from Baker IDI of the Patents in that jurisdiction.

4. GRANT OF LICENCE

In consideration for the Assignment, each of the Assignees hereby:

- a) grants to Baker IDI a non- exclusive, non-transferable perpetual licence to use the Patents, but only for non-commercial educational and research purposes of Baker IDI, and
- b) undertakes to pay to Baker IDI [REDACTED]

5. MAINTENANCE OF THE TECHNOLOGY

From the Commencement Date the Assignees acknowledge that they are jointly liable for:

- a) all Patent Costs associated with the application, prosecution and maintenance of the Patents; and
- b) all Costs associated with any action in any jurisdiction for infringement by a third party of the Patents or any action in any jurisdiction regarding the validity of the Patents.

and the Assignees indemnify Baker IDI in respect of any such Costs.

6. ONGOING EMPLOYMENT

Those Assignee's that are employees of Baker IDI acknowledge that they will not be entitled to any share of the benefits normally payable in accordance with the Baker IDI Intellectual Property Policy from Baker IDI's share of Net Income payable under this Agreement.

7. IMPROVEMENTS

- 7.1 The Assignee's acknowledge that any IP created by Baker IDI in accordance with the license granted in clause 4a) will be owned by Baker IDI ("Improvements").
- 7.2 If the Assignees wish to obtain the rights to any Improvements Baker IDI agrees to negotiate, in good faith, a license to the Assignees on arms length commercial terms.

8. GENERAL

- 8.1 This Agreement contains the entire agreement between the parties with respect to its subject matter and supersedes all prior agreements and understandings between the parties.
- 8.2 This Agreement can only be amended or replaced or novated by another document signed by the parties
- 8.3 Any provision of this Agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Agreement enforceable, unless this would materially change the intended effect of this Agreement.

- 8.4 A provision of or a right created under this Agreement may not be:
 - (a) waived except in writing signed by the Party granting the waiver; or
 - (b) varied except in writing signed by the Parties.
- 8.5 The rights provided in this Agreement are cumulative with and not exclusive of the rights provided by law independently of this Agreement.
- 8.6 This Agreement may be signed in counterparts each of which are an original and together constitute the same Agreement.
- 8.7 This Agreement is governed by the law of the State of Victoria, Australia, and the parties submit to the jurisdiction of the courts exercising jurisdiction in that State.

Execution

Executed as an agreement:

Signed for and on behalf of **Baker IDI Heart & Diabetes Institute Holding Limited** (ABN 98 131 762 948) in the presence of:

Signature of witness

Keats A. Nelms

Name of witness (print)

KEATS A. NELMS

Fiona Nelms

Signature of authorised person

FIONA NELMS

Name of authorised person (print)

May 27 2011
Date of signing (print)

Signed by **David Kaye** in the presence of:

Neussa Birac

Signature of witness

NEUSSA BIRAC

Name of witness (print)

DK

Signature of person

DAVID M KAYE

Name (print)

9/2/2011
Date of signing (print)

Signed by John Power in the presence of

Signature of witness

Name of witness (print)

Signature of person

Name (print)

Date of signing (print)

Signed by Clifton A. Alferness in the presence of

Signature of witness

Name of witness (print)

Clifton A. Alferness
Signature of person

CLIFTON A. ALFERNESS
Name (print)

7 MARCH 2011

Date of signing (print)

Carl H. Armstrong
Name of witness (print)
Carl H. Armstrong

Signed by John Power in the presence of:

P. O. Rattay
Signature of witness

P. Rattay Prudence D. Rattay
Name of witness (print)

9/3/11

John M Power
Signature of person

JOHN M POWER
Name (print)

9/3/11
Date of signing (print)

Signed by Cliff Aiferness in the presence of:

Signature of witness

Name of witness (print)

Signature of person

Name (print)

Date of signing (print)

SCHEDULE 1

Patent

US 10/592,839 titled "Treating valve failure" priority date 15/3/2004